

# PROFESSIONAL CUSTOMER PRODUCT SALES AGREEMENT

This PROFESSIONAL CUSTOMER PRODUCT SALES AGREEMENT (the "Agreement") are the effective Terms and Conditions governing sales between the Sanitas Account Holder ("Customer") and Rocky Mountain Natural Labs, LLC (d/b/a Sanitas Skincare) ("Sanitas").

Sanitas has created a line of skincare products ("Products") recognized in the industry for their high quality and standards, which quality and standards have created a brand and image associated with the Rocky Mountain Natural Labs, LLC name and its associated brands (including Sanitas Skincare) that requires Sanitas to obtain from its authorized customers agreements on certain terms and conditions before Sanitas will supply them with any Products.

In consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

## 1. PRODUCT SALES; DELIVERY; RETURNS AND PAYMENT; CUSTOMER ACCOUNTS

1.1. Product Sales and Purchase Orders. Products purchased pursuant to this Agreement or otherwise acquired by the Customer shall be solely and exclusively for professional use by Customer and/or resale to end-user consumers ("Consumers").

- (i) When Customer places an order for Products, Customer is making an offer to purchase Products under the terms and conditions of this Agreement. Orders for Products by Customer which are accepted by Sanitas shall be evidenced by the shipment of Products via a Sales Receipt, Invoice or Sales Order ("Order"). All Orders issued shall constitute irrevocable, non-cancellable obligations of the Customer.
- (ii) Sanitas may, in its sole and absolute discretion, accept or reject Customer orders for Products by confirming the order by issuance of a Purchase Order or by delivering Products to Customer, whichever occurs first. If Sanitas does not accept an order, the order will lapse. No order is binding on Sanitas unless accepted by Sanitas as set forth herein. Sanitas reserves the right, in its sole and absolute discretion, to require minimum order quantities for certain Products.

1.2. Conditions to and Limitations on Product Sales. Customer hereby acknowledges and agrees that by purchasing Products from Sanitas on the terms hereunder and/or establishing a Customer Account with Sanitas for the purchase of Products ("Account") that Customer is hereby representing and warranting to Sanitas that Customer, is now and during the term of this Agreement:

- (i) an aesthetician, registered nurse, physician, physician assistant or other professional certified by Customer's relevant state professional and regulatory authority, that may, by virtue of Customer's certification, apply Products on Customer's clients or patients;
- (ii) maintains their professional certifications in good standing;
- (iii) operates according to local regulations and laws;
- (iv) operates within their local scope of practice;
- (v) maintains liability insurance adequate to cover business exposure;
- (vi) is purchasing Products only for application on clients or patients as a service in exchange for a service fee;
- (vii) will only sell Products to individuals that Customer believes are purchasing Products for their personal use or the use of their friends and family;
- (viii) will only sell Products in quantities that are reasonable for an individual's personal use and not for resale;
- (ix) will only sell Products at Customer's place of business as designated in the Account;

- (x) will not sell Products online on any website without Sanitas' prior written approval, which may be granted or denied in Sanitas' sole and absolute discretion, and which may be subject to separate terms and conditions, including, but not limited to, those terms included in this Agreement;
- (xi) will only sell Products to end users of the Products and not to parties that resell Products, or can be reasonably anticipated to resell Products;
- (xii) will use Products only in a lawful manner and otherwise in compliance with the terms of this Agreement; and
- (xiii) has the capacity to be bound by this Agreement.

Customer may not, under any circumstances:

- Engage in any unfair, competitive, misleading or deceptive practices in respect of Sanitas or Products or in any way relating to Sanitas' Intellectual Property Rights, including any product disparagement or "bait-and-switch" practices;
- Separate any accessories (including other Products) bundled or packaged with any Products or sell or distribute any Products on a standalone basis;
- Remove, translate or modify the contents or documentation of or related to any of Products, including any warranty statements.

In order to ensure compliance with this Agreement, Sanitas reserves the right to inspect Customer's place of business during regular business hours.

1.3. Pricing. All sales of Products shall be at the prices in effect at the time the order for Products is shipped by Sanitas. Advertised prices and available quantities are subject to change without notice and may vary by area or location. Sanitas may, in its sole and absolute discretion, provide Customer with discounts, rebates, markdowns and similar promotions. Prices shall be exclusive of all tariffs, taxes, insurance, shipping, freight, and delivery charges, unless otherwise included in the price list or previously addressed in writing to buyer from Sanitas.

1.4. Incorrect Pricing. Sanitas' website or other materials may contain technical inaccuracies and typographical or other errors in connection with Products, including prices or available quantities. Sanitas makes no representations and assumes no responsibility as to the completeness, accuracy or timeliness of any content describing Products (including any features, specifications, prices and available quantities). Sanitas may, in its sole and absolute discretion, honor accepted orders or information affected by any errors, inaccuracies or omissions in connection with Products. In the event that a Product is mistakenly listed at an incorrect price, Sanitas reserves the right to refuse or cancel any orders placed for Product listed at the incorrect price. Sanitas reserves the right to refuse or cancel any such orders whether or not the order has been confirmed and a credit card charged. If a credit card has already been charged for the purchase and the Product order is cancelled, Sanitas will either issue the Customer a product credit or a refund to the Customer's credit card.

1.5. Shipment and Delivery. Unless otherwise provided by Sanitas in writing, all Product shipments should be made FOB originating warehouse, at which time the title, risk of loss or damage should pass to the Customer when the products are transferred to the carrier. Unless otherwise agreed by Customer and Sanitas, shipments of Products will ship by UPS Ground, or such other delivery method and carrier as Sanitas shall determine. All delivery dates provided by Sanitas are estimates only and Sanitas shall have no liability for any failure to meet any estimated delivery date. Additional fees may apply for use of other carriers or for expedited shipping. Orders placed for pickup must call 24 hours in advance of desired pickup time to ensure adequate processing time.

1.6. Inspection. Customer must inspect Products upon delivery and either accept or, if Products are nonconforming, reject such Products. Customer is deemed to have accepted delivered Products unless it notifies Sanitas by email at orders@sanitas-skincare.com or by calling the Customer Service Department at 303-449-1875 or 888-855-8425 that Products are nonconforming within three (3) business days of delivery and furnish Sanitas with written evidence or other documentation as reasonably requested. If Customer timely notifies Sanitas of any nonconforming Products, and Sanitas determines that the Products are, in fact, nonconforming, then Sanitas will, at its option either replace such nonconforming Products with conforming Products, or refund the

price for such nonconforming Products, together with all shipping and handling expenses incurred by Customer in connection therewith, or if Products are in excess of quantity ordered, refund the price for such excess Products, together with all shipping and handling expenses incurred by Customer in connection therewith. If Customer does not reject any excess Products within three (3) business days of delivery and instead accepts the delivery at the increased quantity, then Customer will promptly pay the applicable price for excess Products. Except as explicitly provided otherwise, any inspection or other action under this paragraph will not reduce or otherwise affect Customer's obligations under this Agreement Terms. The remedies set forth in this paragraph set forth Customer's sole and exclusive remedies for delivery of nonconforming or excess Products. Customer staff shall inspect the Products immediately upon delivery. If the package shows signs of damage or spillage, Customer should reject delivery and return the same to the carrier in order to avoid charges for return of the Products.

1.7. Product Returns. Sanitas may issue authorization for return of Products sold directly to Customer that meet the following criteria:

- (i) Returned products must be unopened, unused and in their original, saleable condition.
- (ii) Return by Customer – If Customer wishes to return the Product ordered for any reason, the product may be returned for credit when reported within thirty (30) days of receipt. Customer will incur shipping charges and Sanitas may charge a processing and restocking fee equal to 25% of the total Product value for such returns.
- (iii) End-user Dissatisfied – Any retail Product that is no less than 75% full may be returned to the Customer when the Consumer is not satisfied with the Product performance. Customer may be sent replacement Product for the items returned. No refunds will be given and the returned Product must be sent to Sanitas within 30 days of Customer receipt with a Sanitas Customer Return Form.
- (iv) Products Not Eligible for Return:
  - 1. Professional (backbar) products cannot be returned.
  - 2. Discontinued products.
  - 3. Product returned by a party other than the purchaser.
  - 4. Product clearly communicated or identified as non-returnable.
  - 5. Expired product - Sanitas products have a two year expiration. (Please consult a Sanitas Account Representative with any specific product expiration questions.)
  - 6. Product not in original packaging or has been repackaged or refilled into other containers/packages.
  - 7. Product provided to Account as sample or display product.
  - 8. Product involved in a bankruptcy or similar sale, or items that have been damaged due to conditions beyond the control of the manufacturer, such as improper storage, heat, cold, water, smoke, fire, and negligence. Sanitas products must be kept in a climate-controlled environment avoiding direct sunlight, freezing and extreme temperatures. Containers must be tightly closed at all times when not in use.

After thirty (30) days, no product returns will be accepted. The only exception will be in the case of Consumer dissatisfaction, product quality complaint or adverse reaction. Proper documentation will be required in such cases.

1.8. Return Process. To obtain authorization to return product for replacement or credit, please call Customer Service at 303-449-1875 or 888-855-8425 with the following information, which will be included on the Return Form issued by Sanitas:

- (i) Account details (name, address, phone number, billing and shipping address);
- (ii) Product Name(s) and quantity of each;
- (iii) Lot Numbers (if possible);
- (iv) Original Sales Receipt or Invoice Number;
- (v) Reason for Return (i.e., concealed damage).

Sanitas Customer Service will provide a Return Merchandise Authorization Number (RMA #) for those items approved for credit. All returns should include a signed copy of the RMA form, and must be included with any returned goods. No product will be accepted for replacement or credit without a RMA form. Sanitas reserves the right to inspect all authorized returns prior to issuing credit and to destroy products deemed unfit for sale whether or not they are eligible for credit.

1.9. Backorders. In the case of a backorder, Customer will be notified. Additional shipping charges will not be incurred for shipping of an outstanding backorder. A shipping charge will be added for additional items added to a backorder.

1.10. Payment.

- (i) Unless Sanitas in its sole discretion elects to extend different payment terms, Customer shall pay the invoiced amounts for the Products (and any associated freight, shipping and handling) by credit card processed at the time of shipping. If any credit card charge is not paid or honored for any reason whatsoever, Customer shall be deemed to be in default under this Agreement and payment shall be deemed past due from the date of the underlying invoice and, in addition to any remedies to which Sanitas may otherwise have, Sanitas may hold any then pending shipment to Customer. Except as otherwise expressly agreed upon in writing by Sanitas, Customer shall be responsible for all shipping, handling, freight, insurance costs and taxes (or the like) in connection with any order of Products.
- (ii) Orders placed with credit cards that are unable to be processed for payment will be held for 24 hours for payment and after that time the order will be "Cancelled" and can be re-submitted.
- (iii) If Sanitas in its sole discretion agrees in writing to allow payment by check any such payment shall be due at the time of shipping. Any check returned for insufficient funds shall, in addition to all other rights and remedies of Sanitas, be subject to a \$75.00 returned check fee.
- (iv) If agreed to by Sanitas in writing, any Products shipped COD or other credit terms shall incur additional fees. If payment is not received by such agreed to date, a late payment of one and one half percent (1.5%) per month or the maximum amount permitted by law, whichever is less, of the unpaid balance shall be paid by Customer. Acceptance of any partial payment shall not constitute a waiver of Sanitas' right to payment in full of all amounts owing from Customer. Sanitas shall retain a purchase money security interest in all goods sold to Customer until the full purchase price therefore and any late payment charges have been paid.

1.11. Taxes. All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes), and Customer agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Sanitas' net income. All amounts payable by Customer hereunder, including all Product payments, shall be grossed-up for any withholding taxes imposed by any foreign government on Customer's payment of such amounts to Sanitas.

1.12. Establishment of Customer Account. Sanitas, at its sole discretion, may require Customer to establish an Account which may include Customer's creation of a username or password and submission of information or materials about Customer ("Customer Information"). As a condition to establishment of an Account, Customer may be required to provide such information and materials as Sanitas may reasonably request from time to time, including the following:

- (i) As applicable, a copy of Customer's state professional cosmetology license, aesthetician license, registered nurse license, physician license, physician assistant license and any other professional license required by state or local law or ordinance in order for Customer to apply Products on clients or patients;
- (ii) The declarations page of the Customer's insurance policies as part of establishing or maintaining an Account; and
- (iii) If Customer claims an exemption from any sales tax, a current copy of Customer's State Sales Tax Exemption Form for purposes of treatment services.

1.13. Account Security. If a Customer Account includes a password, Customer acknowledges that such password and related Account is personal to Customer, not transferrable or assignable, and Customer will not provide any other person or entity with

access to the Customer's Account or to Products. Sanitas is not liable for any loss that Customer may suffer as a result of the authorized or unauthorized use of an Account password by a third party. Sanitas may disable any username, password or other identifier, whether chosen by Customer or Sanitas, at any time in its sole discretion for any or no reason, including if in the sole opinion of Sanitas that Customer has violated any provision of this Agreement or other applicable terms of the purchase and sale of Products. Customer will immediately notify Sanitas of any unauthorized use of Customer's password, any unauthorized use of Customer's Account, any violation of this Agreement, or any other breach of security known to Customer in connection with Customer's Account or Products.

1.14. Customer Information. Customer will at all times provide only true, current, complete and accurate information, and will not misrepresent its identity. Customer will keep the Customer Information current and provide any necessary updates to the Customer Information to keep it current at all times. Customer Information may include information or materials that may be of confidential nature or that can personally identify Customer, such as information regarding Products Customer has purchased or financial information. Sanitas collection, use and disclosure of Customer Information are governed by this Agreement and the terms of any Privacy Policy Sanitas may maintain from time to time.

SANITAS MAKES NO WARRANTY OR REPRESENTATION REGARDING THE CONFIDENTIALITY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED ON OR THROUGH AN ACCOUNT. SANITAS WILL NOT BE RESPONSIBLE OR LIABLE IN ANY WAY FOR ANY INJURY, LOSS OR DAMAGE TO CUSTOMER COMPUTERS, MOBILE PHONES OR OTHER DEVICES, OR INTERCEPTION OR USE OF CREDIT CARD INFORMATION OR OTHER PERSONALLY IDENTIFIABLE INFORMATION, RELATED TO OR RESULTING FROM USE OF AN ACCOUNT.

1.15. Cancellation of Orders and Account Termination.

- (i) Sanitas may, in its sole and absolute discretion, cancel an order placed by Customer if it discontinues sale of Products or may reduce or allocate inventory of Products, or if it determines to terminate an Account as provided herein. If Sanitas terminates an order for any reason, Customer's sole and exclusive remedy is a refund of amounts paid for Products not delivered prior to termination.
- (ii) Customer may terminate an Account at any time for any reason by giving Sanitas ten (10) days' notice in writing, by email at orders@sanitas-skincare.com or by calling Sanitas Customer Service at 303-449-1875 or 888-855-8425. Sanitas may terminate an Account or any Order (i) at any time for any reason (ii) immediately without notice to Customer if Sanitas determines, in its sole and absolute discretion: (A) that Customer's financial condition or creditworthiness is inadequate or unsatisfactory to perform under this Agreement; (B) that Customer is in violation of its payment obligations under or are otherwise in breach of this Agreement; (C) that Customer has not ordered a minimum of \$250.00 within a six (6) month period; (D) upon Customer's death or incapacity, or if Customer is an entity, upon its ceasing of operations, dissolution, liquidation or suspension; or (E) that Customer, or any circumstances relating to Customer, can adversely affect Products, or Sanitas' reputation or business. Notwithstanding termination of an Account, all Customer obligations under this Agreement that, by their nature, should reasonably be expected to survive termination of this Agreement and termination of an Account, will survive termination of this Agreement and the Account. On termination of the Account, if requested by Sanitas in writing, Customer will immediately cease offering, marketing and applying Products to Consumers, clients or patients. Sanitas may include such a request in a notice of termination, or in a written notice issued subsequent.

**2. PRODUCT USE AND RESALE POLICIES**

2.1. Use of Products. Only designated retail Sanitas Products may be sold. Professional products and samples, as well as any product not marked for resale are not intended for resale and may not be resold. All Products and promotional materials are to be used solely by the authorized Customer Account or the individual named and addressed on the invoice/sales receipt/Account. At no time may any materials or Products be resold, redirected or transferred to another entity or location not identified as an authorized entity or location under the authorized Account name without written consent from Sanitas. Products shall at all times be used by Customers and Consumers only in accordance with Product information or dispensing information included with each Product and no Product shall be used in any manner other than for external topical use in accordance with directions and no Product shall be used in any other manner including, but not limited to, any injection, inhalation, swallowing or other ingestion of Products unless explicitly indicated on the packaging of such Product. Customer agrees that Products may be used only: (i) for application on Customer's clients or patients as a service at its place of business as identified by the Account; (ii) if Customer is a skincare professional,

aesthetician, registered nurse, physician, physician assistant or other professional with a certification from a relevant state professional and regulatory authority that allows Customer, by virtue of such certification, to apply Products on clients or patients as a service; (iii) after Customer has reviewed and understands the functions, benefits, and recommended use of all Products as described in the relevant treatment protocols and educational materials; and (iv) in a lawful manner and otherwise in accordance with this Agreement.

2.2. Compliance with Customer Sales Policies. Customer agrees to be in full compliance at all times with all Professional Customer Products Sales Agreement Policies that Sanitas may from time to time implement and post on its website at [www.sanitas-skincare.com](http://www.sanitas-skincare.com) (“Professional Customer Products Sales Agreement”). Customer shall be responsible for checking for any updated Customer Sales Policies posted at the foregoing website location and Sanitas shall not be required to give written notice of any changes, modifications or additions to any Customer Sales Policies adopted by it. Any such Customer Sales Policies shall be deemed incorporated into this Agreement by this reference. In addition to the foregoing, Customers that engage in any of the following sales or advertising tactics will be deemed unauthorized and will not receive future shipments of Products:

- (i) Advertising Products in a manner that is inconsistent with the Sanitas brand, in a manner not approved by Sanitas, or making any representations as to Products that extend beyond what is represented by Sanitas;
- (ii) Diverting Products or reselling Products to purchasers for resale or intended diversion with the intent of resale;
- (iii) For international accounts: selling Products for export outside of the territories outlined in the Sanitas contract, either directly or indirectly, without prior written authorization from Sanitas;
- (iv) Discounting as a sales practice; however, Sanitas may allow limited promotions involving discounts provided the Account makes advanced arrangements with management representative at Sanitas and outlines terms and length of said discounting period and gains approval of Sanitas;
- (v) Failing to respond promptly to customer complaints or requests for returns or refunds; or
- (vi) Failing to comply with Sanitas payment terms.

2.3. Anti-Diversion. In order to assure the promotion of Products and high quality service to Customers and Consumer and to further protect against the dilution and contamination of the Sanitas Products and brands, it is the policy of Sanitas that all sales and/or distribution of Sanitas products not expressly permitted by this Agreement or the Customer Sales Policies are considered diversion (“Diversion”). With each order of Products, Customer represents that the Products being ordered are for professional spa, dermatological or medical services and sale to their informed end-users only. Distribution or sale of Products through other channels (including, without limitation, by mail or phone order, catalog, telephone solicitation, television, or radio, or through the world wide web (the “Internet”) or any other electronic medium) is strictly prohibited without the prior written consent of Sanitas. Furthermore, all authorized accounts acknowledge and agree to abide by the following:

- (i) Customer will not sell Products to any diverter, distributor, redistributor, wholesaler or end-user that will or may likely engage in further distribution or sale of Products and will use its best efforts to prevent said parties from doing so.
- (ii) Customer agrees not to sell in bulk and agrees not to sell any end-user more than six (6) pieces of any single SKU of Sanitas product in a single sales transaction in a single day.
- (iii) Customer agrees not to remove, obliterate, hide, mask, alter or otherwise tamper with any batch codes, tracking codes, serial numbers, labels, lot numbers, expiration dates or any other codes located on the Product.
- (iv) Customer will not distribute or sell products in bulk or resale Product to any other business, wholesaler, or distributor.
- (v) Customer will not offer for sale, sell or distribute any backbar, tester or sample Products or Products associated with spa, dermatological or medical services or any products specifically identified or labeled as, or intended for, “Professional Use Only” or “Not Intended for Individual Sale” or “Not for Resale”.

2.4. Sanitas Pricing Policy. Customer is free at all times to set the price at which it sells Products to Consumers. If a Sanitas reseller, such as Customer chooses to price Products differently than at the suggested prevailing retail price as set by Sanitas from time to time, it is Sanitas' policy to discontinue sales of Products to that reseller, including Customer. Customer may at any time request the suggested prevailing retail price list for all Products by calling Sanitas' Customer Service Department at 303-449-1875 or 888-855-8425. This paragraph is intended to inform Customer of the Sanitas pricing policy. It does not constitute consideration for any part of this Agreement, and does not separately constitute an agreement between Customer and Sanitas regarding the price Customer will charge Consumers for Products.

2.5. Internet Sales Policy. Sanitas is committed to establishing its Products as leaders in the market. This leadership involves establishing an Internet sales policy that protects Consumers from potential counterfeit and illegally acquired Products. To facilitate achievement of these goals, Sanitas has adopted an Internet Sales Policy designed to support legitimate, authorized business accounts and to establish a process to identify and register authorized accounts and websites associated with those authorized accounts. Sanitas prohibits the promotion or sale of Products on any Internet site unless the business rules are strictly adhered, including, but not limited to, receiving written approval to sell Products through the internet. As part of this sales policy, which may be supplemented, modified or superseded by any Customer Sales Policies, Sanitas:

- (i) Requires Customers to sell Products only under the Account name registered with Sanitas (including any tradenames or business affiliates associated with Customer that are registered with Sanitas as being directly associated with Customer). No Product sales under fictitious or unidentifiable Account names or names not easily recognizable by Sanitas as the Customer will be allowed.
- (ii) Does not approve sales via any third party website (such as eBay, Yahoo, Biz Rate or Amazon) and does not allow affiliate marketing and third party diversionary selling. Any Customer found to be engaging in such attempted sales tactics will be in breach of this provision. Products sold through these sites are considered "unauthorized" and Sanitas strongly discourages purchase from these sites and cannot guarantee the quality or authenticity of these products.
- (iii) Limits the approval to sell Products via the Internet to a limited, non-exclusive and temporary use that may be revoked, revised, or limited by Sanitas at any time, without prior notice, and for any reason, in its sole and absolute discretion, including, but not limited to, Customer's violation of the terms and conditions of the Internet Sales Policy.
- (iv) Does not allow Customer to advertise or use words on its website such as "authorized dealer" or "authorized representative" of Sanitas Products without prior approval from Sanitas. Customer is not allowed to and must never represent itself as Sanitas or an "exclusive retailer" of Sanitas products, but rather must make it clearly known that they are a retailer of Products.
- (v) Discourages discounting as a sales practice; however, Sanitas may allow limited promotions involving discounts provided the Account makes advanced arrangements with management representative at Sanitas and outlines terms and length of said discounting period and gains approval of Sanitas.
- (vi) By international accounts, prohibits Internet sales of any Product outside of the territories outlined in their contract, either directly or indirectly, without prior written authorization from Sanitas.
- (vii) Requires completion of the Internet Sales Authorization form in order to register Customer's site and gain authorization to advertise, sell or otherwise promote Products on the Internet.

It is Sanitas' firm position that each of the sales or advertising tactics outlined above are likely to damage the investment that Sanitas has made in offering high quality products to Consumers. This list is not exhaustive, and Sanitas reserves the right to exercise independent discretion in regard to which Customers are authorized to buy and sell Products.

2.6. Remedies. Sanitas reserves the right to fully investigate all suspected violations of the policies included in this Section 2 and any Customer Sales Policies. Sanitas reserves the right to refuse to sell Products to any party determined by Sanitas to have violated these policies and to take such further action, such as the commencement of a lawsuit, as Sanitas deems necessary and appropriate for the applicable violation. Without limiting any other rights or remedies available at law or equity, Sanitas, at its sole discretion, may immediately terminate this Agreement if Sanitas believes in its sole discretion that Customer has violated any of the

restrictions set forth in this Section 2. In addition, where appropriate, Sanitas may elect to charge Customer \$100 per piece (unit) for each Product traceable back to the Customer that is in violation of this Section 2. The parties acknowledge and agree that the foregoing is intended to provide for liquidated damages, and not a penalty for applicable violations. Moreover, the parties agree that the liquidated damages called for in this Section are reasonable in light of the harm that will be caused by Customer's breach of the policies provided in this Section, the difficulties of proof of loss and the inconvenience and non-feasibility of otherwise obtaining an adequate remedy. The remedies set forth in this Section are not exclusive of other remedies set forth in this Agreement or provided at law or equity.

### 3. PROPRIETARY RIGHTS AND CONFIDENTIALITY

3.1. Intellectual Property Rights in Products. All intellectual property rights (including but not limited to patent, trade secrets, copyright, or trademark rights) in and to the Products, formulations used in a Product or developed during the development of a product (such formulation, "Product Formulations"), all content included in any Sanitas website, educational or training material, marketing collateral, order forms and documents and/or any other written, electronic or photographic materials provided by Sanitas, including but not limited to text, graphics or code (such collective intellectual property rights, "Intellectual Property Rights") shall remain the exclusive property of Sanitas. This Agreement shall not be deemed or construed to convey or transfer any Intellectual Property Rights to Customer. Customer will not directly or indirectly copy, reverse engineer or otherwise seek to discover or derive the Product Formulations from the Products, nor request or assist any third person to do so. Any goodwill derived from the use by Customer of Products or Sanitas' Intellectual Property Rights inures to Sanitas' sole and exclusive benefit. If Customer shall acquire any Intellectual Property Rights in or relating to any Product (including any rights in any trademarks, derivative works or patent improvements relating to Products), by operation of law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Sanitas, without further action by any party.

3.2. Trademark and Copyright. "Sanitas Skincare" is a registered trademark of Sanitas. The Customer shall have no right to use this or any other trademark or trade dress of Sanitas, registered or otherwise (collectively, the "Sanitas Trademarks"), or any images of the Products that include the Sanitas Trademarks (including but not limited to packaging, promotional materials, images, concepts, logos or names) in any manner (including in advertisements and promotional materials and on the Internet or any other electronic medium) except as specifically authorized by Sanitas in writing in advance. This Agreement does not create any license in favor of the Customer. Any permitted use of the Sanitas Trademarks shall be strictly in the manner prescribed by Sanitas in writing and shall include all required legal notices and shall be discontinued upon notice by Sanitas.

3.3. Restrictions on Use of Sanitas Intellectual Property Rights. In connection with any use by Customer of any Sanitas Intellectual Property Rights, which use shall be solely for the purposes of Customer performing its obligations under this Agreement, Customer shall not:

- (i) take any action that may interfere with any of the rights in or to the Intellectual Property Rights;
- (ii) challenge any right, title or interest in or to the Intellectual Property Rights;
- (iii) make any claim or take any action adverse to Sanitas' ownership of its Intellectual Property Rights;
- (iv) register or apply for registrations, anywhere in the world, for Sanitas trademarks or any other trademark that is similar to its trademarks or that incorporates Sanitas' trademarks in whole or in confusingly similar part;
- (v) use any mark, anywhere, that is confusingly similar to Sanitas' trademarks;
- (vi) engage in any action that tends to disparage, dilute the value of, or reflect negatively on Sanitas' Products or trademarks;
- (vii) misappropriate any of trademarks for use as a domain name;
- (viii) alter, obscure or remove any trademarks or trademark or copyright notices or any other proprietary rights notices placed on Products, marketing materials or other materials that Sanitas' may provide; or



- (ix) place Sanitas' name or trademarks: (a) on, or directly or indirectly in connection with, any facility that is not Customer's principal place of business without prior, written consent, which may be withheld in Sanitas' sole and absolute discretion; or (b) in, or directly or indirectly as part of, Customer's trade, corporate or firm name or style or any of its divisions, subsidiaries or affiliates, if any.

3.4. **Confidentiality.** All confidential and proprietary information including, without limitation, business plans, business methodologies, strategies, technology, specifications, results of operation, development plans, partners, management, suppliers, billing records, Products or services, prospects and information about this Agreement received by Customer from Sanitas shall constitute Sanitas' confidential information (the "Confidential Information"). Customer shall protect the Confidential Information as follows:

- (i) restrict disclosure of the Confidential Information received by it solely to those of its directors, officers, employees, consultants, advisers, attorneys, agents or other representatives (collectively, the "Representatives") with a need to know such Confidential Information in connection with the use or sale of Product and shall not disclose Confidential Information, either implicitly or explicitly, to any other third party without the express prior written consent of Sanitas.
- (ii) advise its Representatives who receive such Confidential information of the obligations of confidentiality under this Agreement and instruct such Representatives to abide by the provisions of this Agreement regarding confidentiality.
- (iii) hold such Confidential Information in strict confidence.
- (iv) be responsible for any breach of this Agreement by any of its Representatives who receive such Confidential Information.

3.5. **Injunctive Relief.** Each party acknowledges that a violation of Section 3 would cause immediate and irreparable harm for which money damages would be inadequate. Therefore, Sanitas will be entitled to injunctive relief for Customer's breach or anticipated breach of this Section 3 without proof of actual damages and without the posting of bond or other security. Such remedy shall not be deemed to be the exclusive remedy for such violation, but shall be in addition to all other remedies available at law or in equity.

#### **4. TERM AND TERMINATION**

This Agreement shall commence on the date of Customer Account Acceptance and continue in effect until terminated as provided herein. For avoidance of doubt, suspension or termination does not relieve Customer of its responsibility to pay for Products it has ordered or fulfill its other obligations to Sanitas. Upon any termination of this Agreement, all rights and obligations of the parties shall cease, except that (a) all obligations that accrued prior to the effective date of termination (including without limitation, all payment obligations) and all remedies for breach of this Agreement shall survive, and (b) the provisions of Sections 2, 3, 4, 5 and 6, shall survive.

#### **5. DISCLAIMER; WARRANTY**

5.1. **DISCLAIMER.** SANITAS DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, COMPATIBILITY, SECURITY, ACCURACY, USEFULNESS WITH RESPECT TO SANITAS' PRODUCTS OR INFORMATION ABOUT THE PRODUCTS, OR AVAILABILITY OF SANITAS PRODUCTS. CUSTOMER ACKNOWLEDGES THAT IT HAS NO EXPECTATION OF ANY PARTICULAR QUANTITIES OF PRODUCT AVAILABILITY. ALL PRODUCTS ORDERS ARE SUBJECT TO ACCEPTANCE BY SANITAS. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE RELATIONSHIP CREATED BY THIS AGREEMENT IS NON-EXCLUSIVE.

5.2. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY (OR ITS SUPPLIERS) BE LIABLE TO THE OTHER PARTY (OR TO ANY THIRD PARTY CLAIMING UNDER OR THROUGH SUCH PARTY) CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS AND GOODWILL OR (B) DAMAGES, IN THE AGGREGATE, IN EXCESS OF THE

AMOUNTS PAID TO IT (IN THE CASE OF SANITAS) OR PAYABLE BY IT (IN THE CASE OF CUSTOMER) HEREUNDER WITH RESPECT TO THE PRODUCT OR SERVICE THAT GAVE RISE TO THE CLAIM DURING THE PRECEDING TWELVE (12) MONTH PERIOD, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE PRECEDING LIMITATION ON LIABILITY SHALL NOT APPLY OR BE APPLICABLE IN REGARDS TO (i) LIABILITIES OR A PARTY HERETO TO THIRD PARTIES PURSUANT TO ANY INDEMNIFICATION OBLIGATION HEREUNDER, (ii) LIQUIDATED DAMAGES OR OTHER DAMAGES AS A RESULT OF CUSTOMER'S BREACH HEREOF; OR (iii) DAMAGES, AS A RESULT OF ANY BREACH BY CUSTOMER OF SECTION 3.

5.3. Indemnification. Customer agrees to indemnify and hold harmless Sanitas, its affiliates, agents, independent consultants, and their respective officers, directors, employees, and agents from any and all liabilities, claims, expenses and damages, including reasonable attorneys' fees and costs, arising out of or in any way related to Customer's: sale of Product; use of information regarding Sanitas Products; Account or any other person's use or access to the Sanitas Product by or through Customer's Account, with or without Customer's permission; or breach or failure to meet or observe any provision or obligation under this Agreement or other product sales documentation, including, without limitation, any claims for false advertising, personal injury, wrongful death to any person, or any injury or damage to any property or business, resulting from or in connection with any wrongful or negligent act or omission of Customer (or its employees and other agents), including any use of Products in any manner other than in strict accordance with the product's intended use as set forth on the Product packaging, product specifications or product use policy, in connection with any storage, handling, marketing, distribution, sale, application or other use of such Products by Customer, and any claims of libel, defamation, violation of rights of privacy or publicity, trespass, and infringement of intellectual or other proprietary rights.

## 6. MISCELLANEOUS.

6.1. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado without regard to the principles of conflict of laws. In the event of any controversy or claim arising out of or relating to this Agreement or the breach or alleged breach hereof, each party irrevocably:

- (i) submits to the exclusive jurisdiction of the U.S. District Court for the District of Colorado located in The City and County of Denver or, if such court does not have jurisdiction, any Colorado state courts sitting in the City and County of Denver Colorado;
- (ii) waives any claim that such action or proceeding has been brought in an inconvenient forum or that there is a more convenient forum for such action or proceeding; and
- (iii) agrees that service of process or of any other papers upon such party by registered mail at the address to which notices are required to be sent to such party under Section 6 hereof will be deemed good, proper and effective service upon such party.

6.2. Change of Ownership. The Customer agrees that in the event of a change in ownership or management of the Customer's business, whether as a result of the transfer of capital stock, assets, or otherwise; Sanitas reserves the right, in its sole discretion to terminate the Account relationship and immediately suspend the supply of Products to Customer. If the Customer opens a new retail location, Customer will notify Sanitas immediately for independent evaluation of the Customer relationship. Sanitas reserves the right to refuse to service multiple locations under one Customer Account and may require each Customer location to open its own, unique Account.

6.3. Authority to Do Business. Customer is a corporation, limited liability company or other entity that is duly organized, validly existing and in good standing under the laws of the state of its formation and has all requisite corporate power and authority to carry on its business as presently conducted and to enter into this Agreement and any addendums hereto.

6.4. Notices. All notices, requests, demands and other communications hereunder shall be made in writing and shall be deemed to have been given (a) upon delivery, if delivered by hand, (b) five (5) days after being mailed first class, certified mail, return receipt requested, postage and registry fees prepaid, to Rocky Mountain Natural Labs, LLC at 833 W. South Boulder Road, Bldg. A, Louisville, CO 80027 and to the Customer at the address set forth on the signature page to this Agreement, or (c) one (1) business day after being delivered to a reputable overnight courier service, prepaid, marked for next day delivery, to Sanitas at 833 W. South Boulder Road, Bldg. A, Louisville, CO 80027 and to the Customer at the address set forth on signature page to this Agreement.

6.5. Entire Agreement. All understandings and agreements heretofore made among the parties with respect to the subject matter hereof are merged in this Agreement, which alone fully and completely expresses their agreement with respect to the subject matter hereof. There are no promises, agreements, conditions, understandings, warranties or representations, oral or written, express or implied, among the parties hereto, other than as set forth in this Agreement. All prior agreements among the parties are superseded by this Agreement, which integrates all promises, agreements, conditions and understandings between the parties hereto.

6.6. Severability; Waiver. It is the desire and intent of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, to the extent that a restriction contained in this Agreement is more restrictive than permitted by the laws of any jurisdiction where this Agreement may be subject to review and interpretation, the terms of such restriction, for the purpose only of the operation of such restriction in such jurisdiction, shall be the maximum restriction allowed by the laws of such jurisdiction and such restriction shall be deemed to have been revised accordingly herein. If, notwithstanding the foregoing, any provision of this Agreement or the application thereof is held to be wholly invalid, such invalidity shall not affect any other provision or application of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are hereby declared to be severable. No failure to exercise, and no delay in exercising, any right or any power set forth in this Agreement will operate as a waiver of such right or power, nor will any single or partial exercise of any right or power under this Agreement preclude further exercise of that or any other right or power under this Agreement.

6.7. Independent Contractors. The parties shall be independent contractors under this Agreement, and nothing herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose. Customer shall not make or provide any representations or warranties to any person or entity concerning Product.

6.8. Force Majeure. Any failure by Sanitas any of its obligations, including fulfillment of any order, will be excused in the event of an unforeseen event beyond Sanitas' reasonable control. Such events will include, but are not limited to, strikes, blockade, war, mobilization, revolutions or riots, natural disasters and shortages.

6.9. No Variations. The terms and conditions herein shall apply to all orders for the purchase of the Product by Customer. Any variation of terms and conditions herein shall be inapplicable unless mutually agreed in writing by the parties hereto or their respective representatives, including pursuant to a signed Purchase Order.

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