

## Terms and Conditions of Sale

Terms are made and orders accepted subject to the following terms and conditions unless otherwise agreed by us in writing.

### Pricing

**1a.** Prices are based on current ruling costs including administration, labour, materials, freight, insurance, foreign exchange, customs duty, and landing charges, and on the latest quotations from sub-contractors, manufacturers and suppliers. Any variation in these rates will be to the buyer's account.

**1b.** All prices quoted unless otherwise specified are ex Arrow Marketing Ltd warehouse with payment to be met prompt 20th of the month following supply. In the event payment is not received by this date Arrow Marketing Ltd reserves the right to charge interest at 2% per month commencing from the due date of payments.

The levying of interest shall not exceed the due date of payment and Arrow Marketing Ltd also reserves the right to restrict or withhold the supply of further goods on credit.

**1c.** Arrow Marketing Limited may require the payment of a deposit

**1d.** Arrow Marketing Limited may at any time and from time to time with or without notice to the client, in its sole discretion, increase or decrease or suspend or revoke the amount of credit (and the credit limit) provided to the client. Any increase or decrease or suspension or revocation of credit or exceeding or change of any credit limit shall hereby be deemed to be consented to by the client and any guarantor(s) and shall not release either the client or the guarantor(s) from liability whatsoever.

**1e.** Payment of amount owing and any other monies owing to Arrow Marketing Limited shall be made free of any counterclaim, set-off, deduction or other claim whatsoever.

### Goods

**1f.** Goods described in the catalogue or elsewhere are subject to a continuing process of technical change and development and it is therefore understood and agreed by the buyer that goods supplied may not comply in all respects with the technical specifications described in the seller's catalogue or elsewhere.

**1g.** If at any time plant or goods cease to be available on existing terms or by reason of strike or industrial action or damage to our plant from any cause it becomes impossible to make delivery in accordance with the contract, we shall be entitled to determine the contract and the buyer shall not in any consequence have any claim for damages. All items quoted ex-stock are subject to prior sale.

### Warranty

**2a.** No warranty, condition description or representation concerning the goods is given or implied or has been or is implied from anything said or written in the negotiations prior to acceptance and any statutory or other warranty condition description representation or undertaking express or implied as to state quality or fitness is expressly included, except those specifically set out as part of this contract.

**2b.** We undertake to remedy with reasonable despatch any original defects arising from faulty workmanship or materials which are notified to us in writing upon discovery, provided the defective item is returned to our warehouse freight paid or in the case of the item not being returnable then provided the expense of travelling, transport, plant hire and accommodation are to buyers account. No responsibility will be accepted for any defect unless the written complaint is first received by us and we have been given the first priority and ample opportunity to rectify the defect.

**2c.** Any goods supplied or work done in remedying such defects shall not extend out liability beyond the time stipulated in clause (2b) above and at the expiration of such time all further liability on our part shall cease.

**2d.** In case of materials, parts or components not manufactured by us, the buyer shall be entitled to the benefit in so far as it can be transmitted of any warranties given by the manufacturer in respect thereof, and our liability in respect of such goods is limited to making the benefit of the manufacturers warranty available to the aforesaid.

**2e.** Liability pursuant to clause (2b) is limited to the actual cost of replacing defective goods and the defective items replaced shall become our property.

**2f.** Liability for consequential damage or loss arising from defects, faulty materials or design, omissions or negligence of workmanship in any goods supplied by us is hereby expressly excluded.

### Cancellation

**3.** No cancellation of any order or part thereof shall be effective until accepted by us in writing. In the event of cancellations being accepted, the customer will as a term of such acceptance pay us in full for any charges resulting from design, procurement of materials, work or services actually carried out.

### Use of Account and variance to terms and conditions of trade

**4.** The use of this approved trading account shall constitute acceptance of these terms and conditions

**4a.** Arrow Marketing may from time to time and in its sole discretion amend, add to or delete any of these terms and conditions of trade.

### Contract Time

**5.** The times and dates for delivery or completion of a contract or any part thereof are business estimates only and no warranty is given in respect of them. We will endeavour to deliver or perform our obligations by the time or date given but we will not accept cancellation on the grounds of delay or be liable for any loss, injury or damage direct or indirect claimed to have arisen therefrom.

### Claims

**6a.** All claims for damaged goods must be made to Arrow Marketing Limited within 6 days from the expected date of delivery by phone or writing. If any item is damaged, this must be isolated in its original packaging and not used. Further instruction will be given by Arrow Marketing Limited staff as to what action needs to be taken. No claim can be made if notification falls outside 6 days from delivery date and in accordance with the contract the buyer shall be bound to accept and pay for the goods.

**6b.** Unless the invoice herewith includes a charge for insurance, the goods shall be at the sole risk of the customer as from the time of delivery to the customer and the goods shall be deemed to have been delivered to the customer as soon as they leave the possession of Arrow Marketing Ltd or its servants.

**6c.** Notification of any items perceived 'lost' or 'not received' must be brought to the attention of Arrow Marketing Limited within 10 days of order date. No claim can be made if notification falls outside the 10 days from date of order.

### Ownership

**7.** Ownership in the goods is retained by Arrow Marketing Ltd until payment is made for the goods and for all other goods supplied by the said Company to the customer. Until such payment is made the customer shall be only a fiduciary owner of the goods and the customer agrees to:

- i) Enable the goods to be readily identifiable as the property of the Company
- ii) Maintain the goods so supplied in good order and condition and to return the goods immediately if called upon to do so by the Company.

In the event of default in payment by the due date, time for which is strictly of the essence, or in any of the other said events, the Company is authorised to collect payment from the nominated Credit Card as provided by the Customer on application for Trade Credit or thereafter the Customer shall at the request of the Company hand to the Company the said goods as had not been sold AND the Company is authorised by the Customer to enter any premises on which the goods may be located and to recover the same.

Notwithstanding the retention of ownership, the Customer may prior to payment in full, as agent to the Company, sell the goods under a bona fide transaction not intended simply to deprive or in an attempt to deprive the Company of the benefit of the retention of title. In the event of a sale of the goods or any of them prior to payment in full the Company shall, as trustee for the Company:

- i) Hold all moneys received by the Customer on any such sales of the goods separate from the Customer's own money and in the name of and to the credit of the Company and the Customer will on request from the Company pay such proceeds to the Company.
- ii) Hold all claims against purchasers of any such goods who have not made payment for the same in trust for the Company and the Company may in any of the said events either in its own name or in the name of the Customer make claim to and issue proceedings to recover the sale price of such goods.

If such goods are sold by the Customer prior to payment therefore and if they shall become constituents of other goods then the proceeds of sale therefore, shall be the property of Arrow Marketing Ltd.

### Personal Guarantee of Company Directors, Sole Traders or Trustees

**8.** If the client is a Company, Sole Trader or Trust, the Director(s), Owner(s) or Trustee(s) signing this contract either in person or with a contract signed on behalf of the Director(s), Owner(s) or Trustee(s) in consideration for Arrow Marketing Limited to supply goods and services and grant credit to the client, also sign in their personal capacity and jointly and severally personally guarantee and undertake to Arrow Marketing Limited the payment of any and all other monies now or hereafter owed by the client to Arrow Marketing Limited. Any personal guarantee made by any party shall not exclude the client in any way whatsoever from the liabilities and obligations in this contract. The guarantees and client shall be jointly and severally liable under the terms and conditions of this contract.

### Interpretation and Arbitration

**9.** The contract shall in all respects be construed according to the laws of New Zealand. If any dispute or difference shall arise, touching the meaning or interpretation of any clause or provision, forming part of the contract or touching the right or obligations of either party in any way relating to the subject matter of such a contract or claims arising thereover the same shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1908 and its amendments.

### Description of Products

**10.** Modifications and improvements to the Company's products are constantly being made. Description, illustrations and prices are therefore not binding.

### Miscellaneous

**11.** Failure by Arrow Marketing Limited to enforce any of the terms and conditions in his contract shall not be deemed to be a waiver of any of the rights or obligations Arrow Marketing Limited has under this contract.

**11a.** Where the terms of this contract are at variance with the order of instruction from the client, this contract shall prevail.

**11b.** For the purpose of this contract the terms "client" and "company" hold the same meaning as each other and can be equally used in context.

**11c.** Arrow Beauty will not sell, share or disclose any personal information regarding your account or information relating to your business activities with Arrow Beauty to any third party without your prior consent.