

TERMS AND CONDITIONS OF SALE

1. "The seller" refers to Quinn International Ltd; "The buyer" refers to any legal entity purchasing from "the seller".
2. **GENERAL**

The Seller accepts the Buyer's order on the conditional which constitute the entire agreement between the Seller and the Buyer and it is expressly agreed that there are no other understandings, representations of warranties of any kind (expresses or implied) forming part of this contract. In particular:

 - i) Any condition contained in the Buyer's order, which is inconsistent with, qualities or is contrary to these conditions, shall have no effect unless the Seller expressly accepts that condition in writing.
 - ii) Any variation, waiver or cancellation of the Buyer's order shall have no effect unless accepted in writing by the Seller. Where the Seller accepts cancellation the Seller may levy a handling charge of up to 10% of the price.
 - iii) Where the Buyer and Seller agree to a variation in the quantity of the goods, the goods shall be priced either at the rate applicable to the original quality or revised quantity at the absolute discretion of the Seller.
3. **PRICES AND TERMS OF PAYMENT**
 - i) All prices listed or quoted are subject to alteration without prior notice, and prices charged will be those current at the time of dispatch of the goods.
 - ii) In the event of any recommended price, this is a guide only and there is no obligation to comply with the recommendation.
 - iii) The Seller's prices are exclusive of taxes, duties and other imposts which, if chargeable, are payable by the Buyer whether they are imposed or brought into force before or after acceptance of the Buyer's order.
 - iv) Payment is due in full on the 20th of the month following the appropriation by the Buyer of the goods ordered by the Buyer. In the event payment is not received by the due date, the Seller reserves the right to charge interest at the 90 day bank bill mid rate (as quoted on Reuters page BKBM at 10.45am) plus a premium of 2% commencing from the due date of payment. Any interest so levied shall accrue on a daily basis and shall accrue until all money owing are paid in full. The Buyer shall also be liable to pay all expenses, legal costs, and collection costs of the Seller in relation to obtaining remedy of the failure to comply.
 - v) The levying of interest shall not extend the due date of payment and the Seller also reserves the right to restrict or withholding the supply of further goods on credit.
 - vi) The Buyer shall make all payments due to the Seller whether in respect of the purchase price otherwise in full without deduction of any nature whatsoever.
 - vii) The Seller shall be entitled to deduct from and set off against any payment due to the Seller or any subsidiary or associated company of the Seller by the Buyer or any branch or subsidiary of the Buyer any credits, or amounts outstanding to the Buyer or any subsidiary of the Buyer.
4. **DELIVERY**
 - i) The Seller may withhold delivery in terms of clause 3) iii above.
 - ii) The Seller reserves the right to dispatch the Buyers order in one delivery or by instalments. Where the Seller acknowledges an order which provides for delivery by instalments the Seller shall be entitled to payment for each instalment delivered (as if it were a separate contract), but failure to deliver instalment shall not entitle the Buyer to repudiate the contract as to any remaining instalments.
 - iii) Any quotations of delivery times by the Seller are made in good faith, but as estimates are not commitments the Seller shall not be bound by such estimates.
 - iv) Where the Buyer requests a particular method of delivery and the Seller agrees in writing then the Buyer shall cover the cost of delivery by that method from the dispatch point of the Seller. Otherwise the Seller will select the method of delivery.
5. **SHORTAGES, DAMAGE OR LOSS IN TRANSIT**
 - i) Liability for shortages in the quantity of the goods delivered is limited to making up the shortages. No claim for shortages in quantity will be allowed unless the customer gives notification of the shortage, in writing, within 3 days of the delivery and provides a reasonable opportunity for the Seller to investigate the claim.
 - ii) Goods leaving the Seller's premises are adequately packed. Claims for damage or loss in transit must be made against the carrier in the prescribed manner. (a) Prior to acknowledging the delivery to the carrier the Buyer must ensure that the complete consignment as per the carriers note has been received. (b) Should there be a shortage or visible damage to the outer packaging the carrier's note must be enclosed accordingly. (c) Within 24 hours of receipt of the consignment the Buyer must ensure that all goods received are in good order and condition.
 - iii) No claims will be considered after 7 days of receipt of goods. While no liability for goods damaged or lost in transit will be accepted by the Seller, details of any claim should be advised the Seller.
6. **RETURN OF GOODS FOR CREDIT**
 - i) Goods supplied ex stock in accordance with Buyer's order can only be returned with the express approval of the Seller. (a) Requests to return goods must be submitted in writing with 14 days from date of supply. (b) Where goods are accepted for credit they must be delivered at the Buyers expense into the Seller's store from where they were purchased in original condition and packaging. (c) The original invoice number must be quoted. (d) The Seller reserves the right to levy a restocking fee against any return they may agree to accept. Such fees may be up to 15% and levied at the Seller's absolute discretion.
 - ii) Goods specifically imported or produced on behalf of the Buyer cannot be returned except by prior written approval from the Seller and then only on such terms as the Seller may agree.
7. **SELLER'S LIABILITY & MAINTENANCE GUARANTEE**
 - i) The Buyer shall ensure that the goods ordered are fit and suitable for the purpose for which they are required and the Seller is under no liability if they are not.
 - ii) In the case of the goods not of the Seller's own manufacture the Buyer is entitled to only such benefits as the Seller may receive under any guarantee given to the Seller by the manufacturers in respect thereof. The Seller shall not be liable for consequential or special damages under any circumstances whatsoever.
 - iii) In lieu of any warranty, condition, or liability by law, the Seller's liability in respect of any defect in, or failure of the goods supplied, or for any loss, injury, or damage attributable thereto, is limited to making good the replacement or repair of defects arising under normal proper use and maintenance arising solely from faulty design, materials, or workmanship within the guarantee period, it stated or otherwise within 12 months of the date of supply provided always that such defective parts are promptly returned to the Seller. Unless otherwise arranged. At the termination of the appropriate period all liability on the Seller's part ceases.
 - iv) This warranty does not cover damage from misuse, accident, neglect, or improper operation, maintenance, installation, modification, or adjustment.
 - v) The Seller's liability under this contract and the warranty in this clause is confined to the Buyer named in this contract, it being agreed that the Seller has no liability to any purchaser of the goods from the Buyer in that the Buyer's rights under this contract are not assignable without the prior written consent of the Seller.
8. **PROPERTY AND RISK**
 - i) Risk (including insurance responsibility) shall pass to the Buyer on the collection of the goods by the Buyer or on delivery by the Seller or by the source to the Buyer of the Buyer's agent or to a carrier for delivery to the Buyer.
 - ii) Ownership of all goods sold by the Seller ("The Goods") is retained by the Seller until full payment is received for all amounts owing in respect of all goods supplied. This provision is designed to protect the Seller in the event of the bankruptcy, receivership or liquidation of the Buyer, a seizure of goods by a creditor of the Buyer or default in payment. Such events and the filing of legal proceedings seeking any such event are subsequently referred to as "the Said Events".
 - iii) Until such payment is made the Buyer shall be only fiduciary owner of the goods and the Buyer agrees to (a) enable the goods to be readily identifiable as such; (b) maintain the goods so supplied in good order and condition and to return the goods immediately if called upon to do so by the Seller.
 - iv) Prior to the Buyer acquiring property in any goods the Seller may at any time directly or by its agents or servants enter upon any land premises or property where it believes such goods may be.

Seller to the Buyer commits an event of default as defined in clause 9 following, then: -

 - (a) The right of the Buyer or any agent of the Buyer to possession of any goods and right to sell or otherwise dispose of those goods shall immediately and without the necessity of any notice terminate, and,
 - (b) The Seller or their agents may at any time take possession of and remove the goods, by force if reasonably necessary. The Buyer will reimburse, indemnify and hold harmless the Seller, its employees and agents in respect of any costs expenses, loss or damages (including such to any third parties) in respect of the exercise or attempted exercise of the Seller's remedies under clause 8, and,
 - (c) The Seller may cancel any or all contracts with the Buyer and the Seller will not be liable to the Buyer therefore, and,
 - (d) All money owing by the Buyer to the Seller on any account whatsoever shall become immediately due and payable, and,
 - (e) The value of such goods seized shall accessed as the lesser of current market value of the invoice value at the time of sale and may be subject to a restocking fee as for return of goods for credit, as above.

- v) Notwithstanding the retention of ownership, the Buyer may, prior to payment in full, as agent for the Seller, sell that goods under a bona fide transaction not intended simply to deprive or in any attempt to deprive the Seller of the benefit of the title in the event of a sale of the goods or any of the prior payment in full, the Buyer, in requested to do so by the Seller in writing, shall as trustee for the Seller:-
- (a) Hold all moneys received by the Buyer on any such sale of the goods separate from the Buyer's own money and in the name of, and to the credit of, the Seller, and the Buyer will on request from the Seller pay such proceeds to the Seller.
- (b) Hold all claims against purchases of any such goods who have not made payment for the same in trust for the Seller and the Seller may in any of the said Events either in its own name or in the name of the Buyer made a claim to and issue proceeding o recover the sale price of goods.
- (c) In respect of any goods which are mixed with or used as constitute parts of a product manufactured or constructed by the Buyer for on sale to third parties immediately on such manufacture and construction occurring the Buyer agrees to store such resultant product in a separate and identifiable part of the Buyer's premises. All proceeds of sale shall be held for the account of the seller in the bank account operated as aforesaid.

9. EVENTS OF DEFAULT

For the purpose of these terms and conditions an event of default on behalf of the Buyer shall be one or more of the following: -

- i) Any default specified in any contract whether between the Buyer and the Seller or the Buyer and any third party.
- ii) The buyer becomes insolvent.
- iii) The Buyer ceases or threatens to cease to carry on its business.
- iv) A receiver, liquidator, official assignee, or statutory manager of the Buyer's assets is appointed.
- v) The Buyer convenes a meeting of the Buyer's creditors or the Buyer proposes a scheme of arrangement with the Buyer's creditor or the Buyer suspends payment to the Buyer's creditors generally.
- vi) Any cheque tendered in payment by the Buyer or on behalf of the Buyer for the payment of Any debt owing to the Seller is not honoured on presentation.
- vii) Any judgement of any Court, which is not stayed or satisfied within seven (7) days.
- viii) Change in the effective control and/or management of the Buyer.
- ix) Any default under the terms of any lease for the premises on which any or all of the goods are stored.
- x) Any other event which in the opinion of the Seller gives rise for concern as to the timely payment of events.

Notwithstanding the passing of time since the default event the Seller can invoke the provision of the clause at any time.

10. ERRORS OR OMISSIONS

Clerical errors or omissions, whether in computation or otherwise in any quotation acknowledgements or invoice, shall be subject to correction.

11. DISPUTES

In the event that any part of an invoice is disputed, the amount not under question shall be paid promptly according to applicable payments terms. Any claim or dispute arising hereunder shall be subject to arbitration in accordance with the Arbitration act (1908).

12. FORCE MAJEURE

The Seller shall not be liable to the Buyer for any loss or damage directly or indirectly arising out of or in connection with any delay in delivery of the goods or failure to perform any terms of this contract where such delay or failure is caused directly or indirectly by an act of God, earthquake, fire, conflict, labour dispute, civil commotion, intervention of a government, inability to obtain labour, materials, facilities, accidents, interruptions of, or delays in transportation or any other cause beyond the Seller's control.

13. COMPLIANCE

The buyer shall not be solely responsible for obtaining any necessary permits under and for compliance with all legislation, regulations, by-laws, or rules having force of law in connection with the installation and operation of the goods.

14. PROPER LAW

The contracts and these conditions of sale shall be given by New Zealand Law and the New Zealand Courts shall have exclusive jurisdiction in connection herewith.

15. INTERNET

While it is acceptable to advertise non-salon products (excluding the O Cosmetics brand) supplied to you by Probeauty on your own website, you are strictly forbidden to advertise pricing below RRP to the general public. You are also strictly forbidden to advertise to trade or otherwise dispose of such products through Trade Me or any other discounter site or surplus/bulk supplies agent.