

**1 INTRODUCTION**

- 1.1 These terms and conditions apply to all or any professional and retail products including ("Products") which are supplied to the purchaser ("Customer") by L'Oréal Australia Pty Ltd ("L'Oréal").
- 1.2 L'Oréal's terms and conditions override, supersede and replace any existing terms and conditions and any previous dealings between the Customer and L'Oréal. They also prevail over, and apply to the exclusion of, any different or inconsistent terms of the Customer (including those on any Customer quotes or invoices).
- 1.3 The Customer acknowledges and agrees that any Products supplied or to be supplied by L'Oréal are supplied only on these terms and conditions and that the Customer will be deemed to have acknowledged and accepted these terms and conditions each time it places an order for Products ("Order") with L'Oréal ("Contract").

**2 ORDER, DELIVERY AND CLAIMS**

**Orders**

- (a) L'Oréal may accept (in whole or in part) any Order, subject to availability of Products, or decline any Order. L'Oréal reserves the right to withdraw some Products from its catalogue. Where an Order is placed for one or several withdrawn Products, L'Oréal will advise the Customer as soon as possible. L'Oréal reserves the right to refuse to deliver in whole or in part what it deems as an unusually high Product Orders.
- (b) Orders must be placed on the basis of the packaging standard indicated by L'Oréal. If the quantities ordered are non-standard, L'Oréal reserves the right to adjust the Order to the nearest packaging standard. Orders below the minimum order value at the invoiced price (excluding GST) contained in the relevant L'Oréal price list will not be accepted or processed. L'Oréal reserves the right to amend the minimum order value at any time.
- (c) L'Oréal will not be liable for any loss (including, without limitation, any indirect or consequential loss), expense, damage or injury or any loss of profits, loss of business or loss of contracts caused by or arising out of any negligence, breach of contract (including, without limitation, breach of these terms) or howsoever caused or contributed to by L'Oréal.
- (d) The Customer agrees to purchase the Products exclusively from L'Oréal or a wholesale merchant authorised by L'Oréal to stock and sell the Products and the Customer will immediately report to L'Oréal any circumstance coming to its notice whereby L'Oréal products are being offered for sale in Australia to the Customer or like businesses other than by L'Oréal or any party authorised by L'Oréal.

**2.2 Delivery**

Arrival dates and times quoted to the Customer are guidelines only, and delays will not entitle the Customer to cancel an Order, reject the Products or claim damages, costs or any other compensation or take any other action against L'Oréal in connection with the delay.

**2.3 Inspection and Claims**

- (a) Subject to clause 14, upon receipt of the Products, the Customer must inspect the Products and note any discrepancy, visible defect and/or damage in the deliveries on the delivery notice or the carrier's form. The Customer must notify the Consumer Service Department of L'Oréal in writing of such discrepancy, visible defect and/or damage in the deliveries within 5 business days upon receipt of the Products ("Claim"). After 5 business days, the Customer will be deemed to have accepted the Products and L'Oréal will not consider any Claim, subject to applicable law. L'Oréal may also refuse to consider any Claim where the Claim procedure has not been followed. This clause does not limit the Customer's rights or L'Oréal's obligations under the *Competition and Consumer Act 2010* (Cth).
- (b) Any returns (arising under any circumstance whatsoever) must be authorised by L'Oréal, before the Customer issues the return and may incur a 10% holding charge. L'Oréal will issue the Customer with an authorisation number for the return. The Customer must provide this authorisation number to L'Oréal at the time the Customer returns the Product(s). L'Oréal reserves the right to reject any returns that do not have or display an authorisation number. Subject to applicable law, any Product which:
- (i) bears or has borne price stickers or has been damaged or defaced by the Customer in any way; or
  - (ii) has been stored in conditions that are abnormal or incompatible with its nature, will not be accepted for return by L'Oréal.
- (c) Where the discrepancy, defect or damage the subject of the Claim is properly notified and evidenced by the Customer and acknowledged by L'Oréal, L'Oréal may at its sole discretion either replace at its expense the miscounted, defective and/or damaged Products or issue a credit note in favour of the Customer for the amount of the missing, defective and/or damaged Products. Products delivered in excess can be returned to L'Oréal or will be invoiced to the Customer if the Customer accepts the Products in excess. The Customer should refer to the L'Oréal Refund Policy for additional information (a copy of the Refund Policy is available on request).

**3 PRICES**

- 3.1 L'Oréal's prices are subject to change on no less than 30 days written notice. The price payable will be the price notified on the price list plus any applicable taxes including Goods and Services Tax ("GST"). If a price is stated as a Recommended Retail Price in L'Oréal's price list or other L'Oréal publication, it is a recommended price only and there is no obligation to comply with the recommendation made by L'Oréal.
- 3.2 Any handling or freight charges or other expenses notified on the price list are payable by the Customer in addition to the Product prices, including any Customer request for special delivery. L'Oréal may amend the handling and freight charges by providing the Customer with no less than 30 days written notice.

**4 INVOICING & PAYMENTS**

- 4.1 For Customers of the Consumer Products, Luxe or Active Cosmetics Divisions payment is to be made in full to L'Oréal, without set off, deduction or counterclaim of any kind, 30 days from the date of invoice, unless otherwise agreed prior with L'Oréal. For Customers of the Professional Products Division, payment is to be made in full to L'Oréal, without set off, deduction or counterclaim of any kind, 45 days from the date of invoice, unless otherwise agreed prior with L'Oréal. Payment is required by electronic bank transfer to L'Oréal's nominated bank account, cheque or by credit card and L'Oréal reserves the right to charge the Customer any applicable bank charges, card merchant fees or costs relating to such payment of invoices. For any electronic bank transfer, the Customer must ensure the L'Oréal account number is included so the payment is correctly referenced. At the time of payment, the Customer must also confirm by email to L'Oréal the details of the payment, including the date, amount and invoice number.
- 4.2 The Customer must pay by the date specified on the invoice. If any invoice is not paid in full on or by the due date (without limiting any other rights L'Oréal may have), L'Oréal may charge the Customer a late payment fee.
- 4.3 Any payment default will not be remedied until the outstanding amount together with any late payment fee (if charged) payable under this clause 4 is paid in full. Any expenses, costs or disbursements incurred by L'Oréal in recovering any outstanding amounts, including debt collection agency fees or legal fees, will be recoverable from the Customer. L'Oréal reserves the right to cancel or suspend further deliveries or, if necessary, require a cash payment before any delivery of Products.

**5 RISK AND TITLE**

- 5.1 The risk in the Products passes to the Customer, and the delivery of the Products occurs, when they are received by the Customer (or the Customer's agent) at their premises.
- 5.2 Property and ownership of the Products does not pass to the Customer until the full purchase price and all other amounts owing to L'Oréal are paid.

**6 PERSONAL PROPERTIES AND SECURITIES ACT 2009 ("PPSA")**

- 6.1 The Customer acknowledges that these terms are a continuing security agreement for the purposes of section 20 of the PPSA and will operate irrespective of any intervening payment or settlement of account until a release has been signed by L'Oréal.
- 6.2 A Security Interest (as defined in the PPSA) is taken in all Products previously supplied to the Customer and in all Products that will be supplied in the future by L'Oréal to the Customer during the continuance of L'Oréal's relationship with the Customer.
- 6.3 L'Oréal may register any Security Interest contemplated by these terms on the PPSA register in any manner it chooses (including by registering one or more financing statements in relation to its interest in the Products, with such expiry dates as L'Oréal determines in its absolute discretion). The Customer must provide L'Oréal with any information it requires for the purposes of effecting such registration.

- 6.4 The Customer must take any steps L'Oréal reasonably requires to perfect or otherwise ensure the enforceability and priority of any Security Interest granted to L'Oréal under these terms, including signing all further documents and so such further acts which L'Oréal may reasonably require to register financing statements or financing change of statements on the PPSA register.

- 6.5 If, in breach of these terms, the Customer attempts to dispose of or otherwise deal with the Products that are subject to a Security Interest in favour of L'Oréal, the Customer acknowledges that despite the disposal or dealing L'Oréal has not authorised the disposal or agreed that the dealing would extinguish L'Oréal's Security Interest and L'Oréal's Security Interest continues in the Products.

- 6.6 L'Oréal or its agents may enter the Customer's premises to take possession of any of its Products in the event that any payment (in respect of those or any other Products) becomes overdue or if any other creditor of the Customer takes any steps to recover monies due by the Customer or has grounds for taking such steps. Should any other creditor recover and sell the Products, all monies or proceeds of any such sale shall be deemed to be held on trust for L'Oréal.

**7 POS MATERIAL**

All advertising and display material, counters, display units and equipment ("P.O.S. Material") supplied without charge by L'Oréal to the Customer will be and remain the exclusive and identified property of L'Oréal and must be returned to L'Oréal immediately upon request. The Customer will have possession of the P.O.S. Material as bailee only and must use the P.O.S. Material in accordance with the guidelines communicated by L'Oréal. No competitor products or POS Material may be present. Apart from normal wear and tear, the Customer must maintain the P.O.S. Material in good condition. The Customer must withdraw any P.O.S. Material from display immediately upon request. The P.O.S. Material is not transferable and cannot be altered, defaced, on-sold or destroyed by the Customer without the express consent of L'Oréal. The P.O.S. Material must not be removed from its existing location without the express consent of L'Oréal and in the event that the P.O.S. Material is removed from its existing location before the expiration of its normal life, and the P.O.S. Material cannot be placed in a new location that is approved by L'Oréal, the Customer must compensate L'Oréal in an amount equal to the book value of that P.O.S. Material.

**8 INTELLECTUAL PROPERTY**

- 8.1 All L'Oréal's intellectual property in the form of patents, trade marks, brands, copyright and other technical information remain the property of L'Oréal and the Customer agrees that it must not use L'Oréal's intellectual property in any manner whatsoever without the prior written consent of L'Oréal.
- 8.2 L'Oréal firmly prohibits any form of diversion, counterfeiting or tampering with L'Oréal's trade marks and product packaging and presentation. Any attempt to divert, counterfeit or tamper with L'Oréal products in any way will be the subject of formal action to the fullest extent of the law. The Customer must immediately advise L'Oréal of any infringements or threatened infringements of L'Oréal's trade marks that may come to its knowledge.

**9 FORCE MAJEURE**

If L'Oréal is prevented from performing any of its obligations in respect of any Order by any circumstances outside its control (including but not limited to strikes, labour disputes, supplying problems, supplier or carrier's defaults, fire accidents, industrial or political activities) further performance of the relevant Order will either be suspended as long as L'Oréal is so prevented or, at its option, cancelled. L'Oréal will not be liable for any loss of profits or contracts or any other indirect or consequential loss, damage or injury caused by or arising out of the suspension or cancellation, whether in contract or tort or otherwise.

**10 "PROFESSIONAL USE" PRODUCTS**

- 10.1 L'Oréal reserves the use and sale of any of its Professional hair product ranges exclusively to suitably qualified hairdressing salons. The supply of such Products is at L'Oréal's sole discretion.
- 10.2 L'Oréal regards a suitably qualified hairdressing salon as one which is:
- (a) Conducting what is traditionally understood and perceived by the industry to be a hairdressing business;
  - (b) Currently licensed by all relevant bodies and authorities to carry on a hairdressing business and is complying with those applicable hairdressing licensing regulations; and
  - (c) Sufficiently qualified according to L'Oréal's standards to ensure that the Products are used correctly and to ensure that proper advice is given to purchasers of the Products in an environment which suits the quality and reputation of the Products and the image L'Oréal has created for such Products.
- 10.3 Consistent with L'Oréal's marketing policy for Professional Products, the Customer:
- (a) Must use the Products distributed, sold and designated as "Professional Use" products (as defined in the relevant Price lists) as part of the supply by the Customer to its clients of its hairdressing services; and
  - (b) Must not sell or otherwise supply those Products designated as "Professional Use" products to any person, other than to consumers for their personal use or consumption within the retail premises of the hairdressing salon of the Customer.

**11 SELECTIVE DISTRIBUTION**

L'Oréal reserves the right, using its absolute discretion, to appoint a Customer as a selective distributor of Luxe, ACD and/or PPD Products by reference to quality standards determined solely by L'Oréal. Such distribution (if applicable) will be documented in a separate agreement, in addition to this document.

**12 SUPPLIER INTEGRITY**

- 12.1 The Customer expressly agrees not to offer any "kick-backs" or facilitation fees to a L'Oréal employee or agent. This includes offering any position as employee, officer, consultant, agent or representative or any directorship or shareholding in the Customer's company to any of L'Oréal's employees, agents or their family members.
- 12.2 The Customer may give gifts up to a maximum value of AUD150 and/or entertainment to L'Oréal employees or agents subject to a maximum value of AUD500. The Customer must ensure that it can make available to L'Oréal, upon request, a detailed list of all gifts and entertainment, irrespective of value, offered by the Customer to L'Oréal employees or agents.
- 12.3 The Customer furthermore undertakes to disclose any situation which could be considered to create a real or perceived conflict of interest. This includes any relationship with a L'Oréal employee or agent and/or holding any position of interest in a competitor, customer, supplier or any other business partner of L'Oréal.

- 12.4 The Customer further undertakes not to tolerate, permit or engage in bribery or corruption when dealing with public officials or individuals in the private sector or permit or engage in any activity which could serve the purpose of money-laundering. If the Customer becomes aware of any breach of L'Oréal's Code of Business Ethics by a L'Oréal employee or agent, the Customer should immediately report this to:
- (a) L'Oréal Australia's Chief Finance Officer: Cherry Liu (SupplierLorealAustralia@loreal.com) or
  - (b) L'Oréal's Asia Pacific Zone Head of Purchasing Non-Industrial Categories: Guillaume Martin (supplierslorealapac@loreal.com)

**13 TERMINATION**

Either party may terminate these terms and conditions:

- (a) immediately by written notice if the other party becomes insolvent;
- (b) immediately by written notice if the other party is in breach of these terms and conditions and has failed to remedy the breach within fourteen (14) days of receiving written notice of the breach; or
- (c) without cause by giving the other party 60 days written notice.

**14 LIMITATION OF LIABILITY**

- 14.1 Subject to any terms implied by the *Competition and Consumer Act 2010* (Cth) ("the Act") or other statutory obligations which apply to the Customer and which L'Oréal cannot exclude, restrict or modify to the extent permitted by law, all other warranties, descriptions and conditions (whether express or implied) are expressly excluded.
- 14.2 If the Customer is entitled to the benefit of the implied terms in the Act, L'Oréal's liability in respect of each Order will be limited to the lesser of the price of the ordered Products or the cost of replacing defective Products. To the maximum extent permitted by law, L'Oréal will not be liable to the Customer for any loss, damage, cost, expense or other claim, however caused (including by L'Oréal's negligence) which arises in connection with the Products, including, without limitation, any loss, damage, cost, expense or other claim arising from the Products being used or stored in conditions that are abnormal or incompatible with their nature.

- 14.3 The Customer must not:
- directly or indirectly re-supply the goods by way of export out of Australia or re-supply to any person in Australia whom the Customer knows or reasonably suspects will re-supply the goods by way of export out of Australia or who holds itself out as an exporter of goods; and
  - sell, offer to sell, advertise for sale or otherwise supply (directly or indirectly) any Products to any person at or from any other location or through the Internet, without prior written authorisation from L'Oréal.

**15 CONFIDENTIALITY**

The Customer, its employees, agents, advisors and subcontractors, must keep confidential all information of L'Oréal, including information about any Products, promotions and trade terms (including these terms and conditions).

**16 NOTICES**

- 16.1 Any legal notice given by the Customer to L'Oréal under these terms and conditions must be in writing and may be given by hand, post or facsimile to:

L'Oréal Australia Pty Ltd, Level 13, 564 St Kilda Rd, Melbourne VIC 3004 | Facsimile: (03) 8680 0804  
Email: [corpaulegalnotices@loreal.com](mailto:corpaulegalnotices@loreal.com)

- 16.2 A notice, direction or other communication is taken to have been received:

- if delivered by hand to the receiver, at the time of delivery;
- if posted in a postage paid envelope addressed to the receiver, 3 business days after the date of posting;
- if given by facsimile, on receipt by the sender of a confirmation message from the receiver or confirmation answerback code of the receiver, except where the receiver notifies the sender of an incomplete transmission.

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- 16.3 For any other correspondence or communication:

*Luxe Division:* E: [Orders.luxury@loreal.com](mailto:Orders.luxury@loreal.com) | T: 1300 133 929 | F: (03)8680 0951  
*Consumer Products Division:* E: [CPD.ManualOrders@loreal.com](mailto:CPD.ManualOrders@loreal.com) | T: 1300 659 259 | F: (03)8680 0951  
*Active Cosmetics Division:* E: [ACDManualOrders@loreal.com](mailto:ACDManualOrders@loreal.com) | T: 1300 133 929 | F: (03)8680 0951  
*Professional Products Division:* E: [PPDclientservices@au.loreal.com](mailto:PPDclientservices@au.loreal.com) | T: 1300 651 141 F: 1800 657 696 | L'Oréal  
Professionel T: 1300 651 141 | Matrix T: 1300 656 247 | Kerastase & Shu Uemura Art of Hair T: 1300 760 550  
| Redken T: 1300 650 170 | Pureology T: 1300 386 421.

**17 GENERAL**

- 17.1 These terms and conditions and dealings between the Customer and L'Oréal will be governed and construed according to the laws of the State of Victoria and the Customer agrees to submit to the courts located in Victoria.
- 17.2 In the event that any of the provisions of a Contract arising out of these terms is illegal or unenforceable (including, without limitation, where the term if held by a Court of competent jurisdiction to be unenforceable), that term will be severed and the remaining provisions of that Contract will remain in full force and effect. The foregoing will not apply where severance of the relevant term would be to the material detriment of a party or would materially alter the scope and nature of the Contract.
- 17.3 L'Oréal's failure to enforce, at any time or any period of time, any term of any agreement incorporating these terms and conditions will not constitute a waiver of such term and will in no way affect its right to enforce it.
- 17.4 L'Oréal and the Customer are independent contractors and no agency, partnership, joint venture or employment relationship is intended or created by this document.