

# TERMS AND CONDITIONS OF SALE

## 1. ACCEPTANCE, GOVERNING PROVISIONS, CANCELLATION

This writing constitutes an offer by SPECTRUM COSMETICS LABS, INC. ("Seller") to sell the products and/or service described herein in accordance with these terms and conditions. No additional or different conditions will be binding upon Seller unless specifically agreed to in writing; failure of Seller to object to provisions contained in any purchase order or other communication from a Buyer shall not be construed as a waiver of these terms and conditions, nor an acceptance of any such provisions. This contract and these terms and conditions shall constitute the entire agreement between Seller and Buyer, and shall be construed according to the internal laws of the State of New York. No orders may be cancelled or modified by Buyer except upon terms and conditions acceptable to Seller, as evidenced by Seller's consent.

## 2. INDEMNITY

Distributor agrees not sell, or otherwise distribute or convey Seller's professional products to anyone other than licensed beauticians. For any actual or alleged injury resulting from any Seller's products sold or otherwise distributed by Distributor to anyone who is not a licensed Beautician, Distributor hereby agrees to defend, indemnify, and hold harmless Seller, its agents and its employees, against all suits at law or in equity, and from all losses, costs, damages, claims, liabilities or expenses, including but not limited to reasonable attorney's fees, which arise out of or result from any actual or alleged injury to any person or property caused by:

1. The sole negligence of Distributor;
2. The sole negligence of Seller;
3. The concurrent negligence of the Distributor and Seller Inc.; or
4. The sole or concurrent negligence of anyone who obtained the product
5. A defect in either the design or manufacturer of the items, commodities, goods and products listed by, described in or covered by this purchase order.

## 3. POLICIES

### A. OPEN ACCOUNT

Standard open-account terms are 2% 30/Net 31 days.

If any invoice remains unpaid 60 days after invoice date, the account is automatically brought to the attention of the Credit Department for review of credit terms. The account thus becomes subject to establishment of restricted terms.

### B. PRO FORMA (CASH IN ADVANCE)

Pro Forma terms will be automatically assigned to a Candidate so newly established in business that a normal credit history couldn't be verified. Or to any open account SPECTRUM COSMETICS LABS, INC. Customer who abuses his credit privileges, or, to a Candidate whose reputation for paying his bill justifies it.

At least on their opening order, Pro Forma terms apply to all Customers outside the continental U.S.A. (Subsequently, payment is handled by irrevocable Letter of Credit, or Sight Draft.)

Pro Forma invoices not paid within 30 days are considered null and void.

### C. COLLECT ON DELIVERY

All C.O.D. orders will be reassigned cash-in-advance (Pro Forma), and will be shipped upon receipt of valid payment. (Valid payment consists of (a) a currently dated check for the full amount, less discount (duly certified if bank certification is requested by SPECTRUM COSMETICS LABS, INC.'s Credit Department); or, (b) any other normally accepted paying instrument, such as money order, bank draft, etc.

Since normal credit-checking procedures take up to 6 weeks, Candidates awaiting clearance may elect to pre-pay their opening order to release shipment immediately. Prepaid orders for \$1000.00 or more are shipped freight pre-paid. All initial prepaid orders enjoy a 2% discount.

Invoices must be paid in the order in which they became due. Customers shall not pay a more recent invoice without first satisfying a prior balance. Payments will automatically be applied against the oldest balance first.

### D. CREDIT LIMITATIONS

SPECTRUM COSMETICS LABS, INC. reserves the rights to set reasonable credit limits when offering open account terms, or when a Customer without limitations abuses his credit privileges.

## 4. ELIGIBILITY

All authorized SPECTRUM COSMETICS LABS, INC. Customers are eligible to order except when an account is past due. An invoice is considered past due if not paid with a currently dated check within 30 days of invoice date. All post-dated checks will be considered tendered as of the date shown thereon, regardless of date actually received; for until they mature, such checks are merely promissory notes.

## 5. FREIGHT POLICY

All goods are shipped freight prepaid with a minimum of \$1000.00 dollar order.

## 6. FREIGHT CLAIMS

SPECTRUM COSMETICS LABS, INC. will help pursue freight claims only if the loss is supported by the proper document: (a) a Delivery Receipt bearing the driver's damage notations and signature, or (b) in the case of concealed damage, a duly executed inspection report, which is a form provided on request by the carrier. Without these documents, the loss shall be borne by the Customer/

Under federal regulations it is the responsibility of the consignee (Customer) to file damage or loss claims promptly with the responsible carrier. "Promptly" is defined as nine (9) months from date of delivery, After that, all rights of claim are automatically forfeited. Since proper handling of such claims therefore depends on the Customer, SPECTRUM COSMETICS LABS, INC. will hold the Customer responsible for the full invoiced value of all lost or damaged goods not claimed within the statutory time limit. Concealed Damage, however, must be reported within 15 days after delivery.

(Please note that these rules are established in the Official Motor Freight Tariff, the "rulebook" of the Interstate Commerce Commission.)

Once properly filed, Customer should send a copy (duplicate, photocopy, or other) of the claim form to SPECTRUM COSMETICS LABS, INC.

## 7. CREDITS

Any request for credit for any reason should be directed to our company headquarters. SPECTRUM COSMETICS LABS, INC., 341 East 150 Street Bronx, NY 10451. Under no circumstances should deductions be made from invoices unless written authorization is received from our office.

## 8. BACK ORDERS

Ordinarily we will not backorder an item unless we are in a position to give a definite future shipping date. Items temporarily out of stock when ordered should be reordered unless the invoice clearly indicates backorder or that the merchandise will follow as soon as possible.

## 9. RETURNED GOODS

SPECTRUM COSMETICS LABS, INC. stands ready and willing to help Customers adjust inventory for more efficient turnover. All goods are sold on a guaranteed sale basis, provided a request for transfer or return is made within six months (180 days) from the date of invoice.

SPECTRUM COSMETICS LABS, INC. WILL CREDIT ALL CUSTOMERS' ACCOUNT UPON RECEIPT OF MERCHANDISE PROVIDED THE FOLLOWING CONDITIONS ARE MET:

- A. Customer requests in writing authorization to return merchandise specifying each item and reason for return.
- B. Only upon receipt of WRITTEN AUTHORIZATION from SPECTRUM COSMETICS LABS, INC., will merchandise be accepted. Once authorization is received Customer should forward to the address on the authorization request the merchandise contained thereon well packed, freight prepaid (unless otherwise authorized).
- C. Credit will be issued on the following basis:
  1. 100% of original invoiced price.
    - a. Saleable, unordered merchandise sent the customer in error
    - b. Unsaleable merchandise due to the fault of the manufacturer.
    - c. Saleable merchandise which had not sold through at a reasonable rate and which represents overstock.
  2. 80% of original invoiced price.
    - a. Merchandise requiring replacement or reconditioning of the package although the product itself is good.
    - b. Saleable merchandise damaged in transit due to improper packing, which is being returned for credit.
  3. Non-returnable merchandise.
    - a. Packages which have been opened and from which part of the product has been removed.
    - b. Merchandise which has been in a fire sale, sacrifice or close-out sale or bankruptcy sale
    - c. Merchandise purchased or otherwise obtained in violation of any federal, state or local law or regulation.
    - d. Merchandise which has deteriorated due to conditions occurring after shipment and beyond control of SPECTRUM COSMETICS LABS, INC. such as improper storage, heat, cold, smoke, etc.

## 10. ORDERS AND CORRESPONDENCE

All orders (weather based on submitted quotations or not) are subject to acceptance and credit approval by SPECTRUM COSMETICS LABS, INC. Headquarters. Submission of prices therefore does not constitute an offer to sell. Correspondence with Company Headquarters should be addressed to: SPECTRUM COSMETICS LABS, INC. 341 East 150 Street Bronx, NY 10451