

# Terms and Conditions of Use

## 1. Welcome to our site

- 1.1. www.mavala.com.au (this **Site**) is operated by Cosimer Pty Ltd (ABN 62 603 974 189) (**Cosimer**) which is registered in Victoria, Australia, under licence from MAVALA SA which is a corporation with its principal place of business located in Geneva, Switzerland. In these terms and conditions (our **user terms**), if we say “we”, “us” and “our” we mean Cosimer, and when we refer to “you” or “your” we mean you, the end user of this Site.
- 1.2. By accessing or using any of the services on our Site, you accept the application of these user terms. If you do not agree to these user terms we won't take it personally, but please do not use our Site.
- 1.3. The Site is a website for our customers to obtain information about our products and purchase consumables relating to cosmetic products and related supplies, (together referred to as the **Services**).
- 1.4. All notices, enquiries or complaints relating to the Services can be communicated to Cosimer at [info@cosimer.com.au](mailto:info@cosimer.com.au).
- 1.5. We may need to change these user terms from time to time in order to make sure they stay up to date with the latest legal requirements and any changes to our Services or policies. When we do amend these user terms, the changes will be effective straightaway. We'll usually publish information about changes to be made to our user terms on our Site – but please be aware that it is your responsibility to check and make sure you keep up to date with any changes to our user terms.

## 2. Use and Access

- 2.1. In visiting our Site, you are granted a non-exclusive, limited and revocable licence to access the Services and use the Site functionality on the condition that:
  - (a) You only use the Site for lawful purposes;
  - (b) You do not engage in any improper, indecent or offensive behaviour while using the Site;
  - (c) You are not breaking any local, state or national law in your relevant jurisdiction by accessing this Site; and
  - (d) You will treat the Site and its users with respect and will not partake in any conduct that could be considered bullying, harassment, degradation, insulting or otherwise demeaning to the human standard of any other person (as determined by us).
- 2.2. By using this Site you agree that we accept no responsibility for this Site or any of its Services being unavailable, and we make no warranties or guarantees, implied or express, as to the ongoing availability of the Site or any of our Services
- 2.3. You agree that we are not liable for any loss or damage that you or any other person may incur by not being able to access this Site or parts of it.
- 2.4. We may change, update or otherwise amend the Site at our absolute discretion and without notice.

## 3. Transactions on the Site

- 3.1. In order to use all of the Services to conduct a transaction you are required to be:
  - (a) 18 years of age or older; and
  - (b) capable of forming binding contracts.
- 3.2. If you are under the age of 18 years, your parent or lawful guardian over the age of 18 may register on your behalf. Your parent or guardian will then be responsible for all of your actions.

- 3.3. The information you provide to us when conducting any transaction using the Site must be accurate and complete in all respects.
- 3.4. You will only represent yourself and will not create false aliases or impersonate any other person (with or without their consent) while using the Site.
- 3.5. You agree to keep us indemnified and hold us harmless in respect of any and all liability, loss, costs and expenses arising from or incurred in connection with any use of the third party merchant facilities used to make a purchase of our products.

#### **4. Accuracy of Information on this Site**

- 4.1. The information on our website is not comprehensive and you acknowledge that there may be technical or administrative errors in the information on the Site, including errors with respect to product description, pricing and availability. While we use all reasonable attempts to ensure the accuracy and completeness of the information on our website, to the extent permitted by law, including the *Competition and Consumer Act 2010 (Cth)* (**Australian Consumer Law**), we make no warranty regarding the information on this website. You should monitor any changes to the information contained on this website.
- 4.2. We are not liable to you or anyone else if interference with or damage to your computer systems occurs from the use of this website or a linked website. You must take your own precautions to ensure that anything you download is free from viruses or other malicious code (such as worms or Trojan horses) that may interfere with or damage the operations of your computer systems.
- 4.3. We may, from time to time and without notice, change or add to the website (including the user terms) or the information, products or services described in it. However, we do not undertake to keep the website updated. We are not liable to you or anyone else if errors occur in the information on the website or if that information is not up-to-date.

#### **5. Intellectual Property**

- 5.1. All content on the Site is the copyright of Cosimer or used by Cosimer under licence. You must not, without our express written permission:
  - (a) replicate all or part of the site in anyway; or
  - (b) incorporate all or part of the Site in any other webpage, site, application or other digital or non-digital format.
- 5.2. Cosimer has moral & registered rights in its trademarks and you shall not copy, alter, use or otherwise deal in the marks without our prior written consent.
- 5.3. You agree that by using the site you will not copy the Site or our Services for your own commercial purposes. You agree and warrant that you will not solicit our suppliers or the users of the Site to join another competing site, or in anyway to stop using the Site in preference of using another site offering comparable services. You indemnify us for any loss or damage we suffer as a result of your breach of this warranty.

#### **6. Third Party Websites and Advertising**

- 6.1. The Site may contain information & advertising from third-party businesses, people and websites (**Third-Parties**). You consent to receiving this information as part of your use of the Site.
- 6.2. We are not responsible for any information transmitted by Third Parties or liable for any reliance you make upon the information or statements conveyed by Third Parties (or in relation to your dealings with Third Parties), nor are we responsible for the accuracy of any advertisements.

#### **7. Limitation of Liability**

- 7.1. You agree that you use the Site at your own risk.

- 7.2. You agree to indemnify us for any loss, damage, cost or expense that we may suffer or incur as a result of or in connection with any misuse or misconduct by you or any other user in connection with the Site, including but not limited to any breach by you of the user terms.
- 7.3. Under no circumstances will we be liable for any direct, incidental, consequential or indirect damages, loss on account of corruption of data, loss of profits, goodwill, bargain or opportunity, loss of anticipated savings or any other similar or analogous loss resulting from your access to, or use of, or inability to use the Site or any content, whether based on warranty, contract, tort, negligence, in equity or any other legal theory, and whether or not we knew or should have known of the possibility of such damage to business interruption of any type, whether in tort, contract or otherwise.
- 7.4. Cosimer does not design or manufacture any of the products listed on the Site and does not provide any recommendation that a particular product is suitable for an individual's circumstance. The person choosing the product is responsible for their choice and we recommend seeking professional advice. Cosimer takes no responsibility for the choice of any product that may lead to loss or injury, or fail to prevent harm being caused to any person.
- 7.5. Apart from those that cannot be excluded under the Australian Consumer Law, we exclude all conditions and warranties that may be implied by law and our liability for breach of any implied warranty or condition that cannot be excluded is restricted, at our option to:
- (a) the re-supply of Services or payment of the cost of re-supply of Services; or
  - (b) the replacement or repair of goods or payment of the cost of replacement or repair.
- 7.6. You agree that any taxation related to any transactions made via the Site is the sole responsibility of the purchaser under that transaction and that Cosimer accepts no liability or responsibility for taxation matters in that regard.

## **8. Colours**

- 8.1. Colours that you see depend on the resolution of the image and your computer display, so we cannot guarantee that your monitor will display the colours accurately.

## **9. Availability**

- 9.1. We reserve the right to limit order quantities of any product, including after you have submitted an order or made a payment.
- 9.2. Representations of goods for sale on the Site do not constitute an offer to sell but an invitation to treat. Such representations do not warrant that the product or service is available.

## **10. Title and Delivery of Goods**

- 10.1. The goods remain our absolute property as a legal and equitable interest until you have paid the full price.
- 10.2. You agree to take on the risk for the goods, such as loss or damage, when the goods reach the delivery address.
- 10.3. After taking delivery of the goods, you agree to examine the goods and notify us if there is any defect in the goods within 14 days of the delivery date.
- 10.4. If we receive no notification from the customer within 14 days of the delivery date, you agree that the goods will be taken as delivered without defect.

## **11. Orders Placed from Outside Australia**

- 11.1. We may be restricted from distributing our products in certain countries outside Australia.

- 11.2. Where you request us to deliver goods outside Australia and we are permitted to do so, you agree to take responsibility for ensuring that the goods can be legally imported into the country of delivery.
- 11.3. You agree to pay any customs, duties or taxes with respect to the goods that we send to the address outside of Australia. These costs will be in addition to the purchase price that we quote on the Site.

## 12. Returns Policy

- 12.1. For hygiene reasons, no returns or exchanges will be accepted on any product sold unsealed or on sealed products where the seal has been broken, unless the product was faulty. For this reason, it is strongly recommended that purchases on the website be limited to products and shades that you have used in the past.
- 12.2. We will provide refunds as required under the Australian Consumer Law if the goods you purchased are:
  - (a) not of merchantable quality;
  - (b) not fit for purpose; or
  - (c) do not match the sample made available to you.
- 12.3. Should you wish to seek a refund due to one of the reasons set out in clause 12.1 above, you are required to return to us within 14 days:
  - (a) The goods you purchased from us, with all original packaging reasonably intact;
  - (b) Proof of purchase, such as the original tax invoice and transaction receipt;
  - (c) Means to identify you as the original purchaser; and
  - (d) Details of the fault or issue with the product, caused by something other than you.
- 12.4. If you return a product to us unopened, unused and in accordance with the above conditions we will provide you with a credit voucher redeemable for any new purchase of goods from us, or, where the returned goods are determined by us to be faulty, a full refund of the purchase price you paid, plus standard shipping charges for the return of the faulty goods.
- 12.5. Exclusions may apply to returned products which do not meet certain criteria, such as clearance stock, customised products, or used items. To return damaged or faulty goods under this policy, please contact our customer service manager via email at [info@cosimer.com.au](mailto:info@cosimer.com.au) or by calling +613 9645 1933.
- 12.6. We reserve our right to reject the claim for refund in respect of any returned products which do not meet the above conditions, and we may return the goods to you at your cost or dispose of the product if you do not pay return postage or collect the product from us within 30 days of being notified that your claim for refund was rejected.

## 13. How we resolve Complaints and Disputes

- 13.1. If you have a complaint in relation to our Services you should report it to us immediately. We may or may not investigate your complaint, depending on its nature.
- 13.2. If you have a dispute with us another user or a product manufacturer in connection with the Services, you must report the dispute to us so that we may investigate and assist in the resolution of the dispute (where possible).

## 14. Privacy

- 14.1. You acknowledge and accept the terms and conditions of our [Privacy Policy](#).
- 14.2. You agree that you will not do anything that shall compromise the Cosimer's compliance with its Privacy Policy nor do anything contrary to the Privacy Policy insofar as your use of the Site is concerned.

14.3. We may amend the Privacy Policy from time-to-time.

## 15. Other important Stuff

- 15.1. Cosimer may end any agreement arising under these user terms immediately for any reason by giving you written notice. Where such agreement has been terminated you must immediately cease using the Site.
- 15.2. We will send you notices and other correspondence to the details that you submit to the Site, or that you notify us of from time-to-time. It is your responsibility to notify us of any updated contact details as they change.
- 15.3. Email notice from us to you is effective notice under these user terms.
- 15.4. You acknowledge that you have not relied on any representation, warranty or statement made by any other party, other than as set out in these user terms.
- 15.5. No clause of these user terms will be deemed waived and no breach excused unless such waiver or consent is provided in writing.
- 15.6. Any agreement arising under these user terms will be governed by the laws of the state of Victoria. You agree to submit to the non-exclusive jurisdiction of the courts.
- 15.7. Any clause of these user terms, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of the user terms.
- 15.8. Any agreement arising from these user terms is part of an ecommerce transaction and the parties agree that the agreement shall be accepted electronically and the agreement formed & validly entered into electronically in accordance with the *Electronic Transactions Act 1999* (Cth).
- 15.9. The termination of any agreement arising from these user terms does not affect the parties' rights in respect of periods before the termination of this agreement.