

TERMS AND CONDITIONS OF SALE

1. FORMATION OF CONTRACT

- 1.1 All sales of the Skinstitut goods (including, but not limited to Skinstitut skin care, skin-inject skin needling devices and Skinstitut promotional material) by Skinstitut (Australia) Pty Limited, ABN 22 137 842 883 (the 'Goods') shall be subject to the following terms and conditions. These terms and conditions govern Skinstitut (Australia) Pty Limited's relationship with you ('Purchaser'). By its execution of this Order, the Purchaser shall be deemed to have accepted such terms and conditions.
- 1.2 Errors in quotations, catalogues, order confirmations, invoices, etc., including errors in calculations, typing and clerical errors shall not be binding upon Skinstitut (Australia) Pty Limited and shall not entitle the Purchaser to claim for damages.
- 1.3 Skinstitut (Australia) Pty Limited explicitly reserves the right to modify the design of its Goods and make other minor technical alterations prior to delivery.

2. OPENING AND MAINTENANCE OF ACCOUNT

- 2.1 The Purchaser will initially be reviewed by Skinstitut (Australia) Pty Limited's internal approval process. In the event that Skinstitut (Australia) Pty Limited approve the Purchaser, the Purchaser must open an initial stock order to the minimum value of \$4,000.
- 2.2 After this initial order, the Purchaser must endeavor to place stock orders either:
 - (a) on a monthly basis, to the minimum value of \$750; or
 - (b) on a quarterly (every 3 months) basis to a minimum value of \$2,250.
- 2.3 The minimum requirements noted in clause 2.2 do not apply for the first three (3) months of the engagement (the 'Exclusion Period').
- 2.4 On and from the last day of the Exclusion Period, the Purchaser must comply with the minimum requirements of clause 2.2, and a failure by the Purchaser to place an order in any consecutive three month period following the Exclusion Period, will result in Skinstitut (Australia) Pty Limited closing the Purchaser's account, following which this agreement and the conditions herein end, unless re-activated in accordance with clause 2.5.
- 2.5 Accounts closed in accordance with clause 2.4 above, be re-activated by Skinstitut (Australia) Pty Limited, in its reasonable discretion, and provided that the Purchaser places another initial opening order to the minimum of \$4,000.
- 2.6 The Purchaser may also seek, upon written request to Skinstitut (Australia) Pty Limited, to place their accounts on hold, in the event of unforeseen circumstances, to which Skinstitut (Australia) Pty Limited may approve in their reasonable discretion.
- 2.7 Any changes that the Purchaser requires to be made to their account, including a change of clinic address, must be notified to Skinstitut (Australia) Pty Limited in writing at least four (4) weeks before such change occurs. Skinstitut (Australia) Pty Limited may require the Purchaser to enter into new terms and conditions where the Purchaser requests changes, however, the initial opening order as set out in clause 2.1 will not apply where the changes requested are solely for a change in address.

3. PRICES AND TERMS OF PAYMENT

- 3.1 The prices for Goods are the prices represented on the respective tax invoice issued by Skinstitut (Australia) Pty Limited to the Purchaser verifying the quantity sold and amount to be paid by the Purchaser, plus any additional charges for freight and delivery.
- 3.2 All prices quoted to the Purchaser in relation to any proposed order from the Purchaser are indicative only and not binding, unless confirmed in writing by Skinstitut (Australia) Pty Limited under the applicable tax invoice.
- 3.2 The Purchaser shall be responsible for all sales or GST type taxes which have been included in the prices quoted where indicated. If such taxes are not included in the prices quoted, the Purchaser acknowledges that it shall nevertheless remain responsible for the same.
- 3.3 If payments are not made in accordance with the agreed terms, Goods will not be released.

4. RESERVATIONS OF TITLE

- 4.1 All Goods delivered by Skinstitut (Australia) Pty Limited to the Purchaser as detailed in this invoice shall remain the property of Skinstitut (Australia) Pty Limited until all amounts owing in respect of the Goods have been paid to Skinstitut (Australia) Pty Limited in clear funds and in full. The Purchaser irrevocably authorises Skinstitut (Australia) Pty Limited to enter the premises where the Goods are stored at any time without notice to remove and repossess those Goods for which payment has not been received by the due date or if the Purchaser becomes insolvent. The Purchaser shall ensure that any third party who takes delivery of the Goods while they are still the property of Skinstitut (Australia) Pty Limited is aware of these provisions.
- 4.2 All risk in the Goods passes to the Purchaser upon the unloading of the Goods on the ground at the delivery place nominated by the Purchaser or if a deemed delivery when the Goods are ready for collection by the Purchaser from Skinstitut (Australia) Pty Limited.
- 4.3 The Purchaser shall have the right to resell the goods, but only as fiduciary agent and trustee for Skinstitut (Australia) Pty Limited by way of bona fide sale at full market value and in the ordinary course of business.
- 4.4 Until the Purchaser has paid for the Goods in full:
 - (a) The Purchaser in the meantime takes custody of the Goods and the Purchaser shall do so as trustee, fiduciary and bailee of Skinstitut (Australia) Pty Limited;
 - (b) The Purchaser shall keep the Goods separate from other goods and properly marked, stored, protected;
 - (c) The Purchaser shall insure the Goods against theft or any damage from the date of delivery or deemed delivery of the Goods and the Skinstitut (Australia) Pty Limited shall be entitled to call for details of the insurance policy. If the Purchaser does not insure the Goods or fails to supply details of its insurance policy the Purchaser will reimburse Skinstitut (Australia) Pty Limited for the cost of any insurance which Skinstitut (Australia) Pty Limited may reasonably arrange in respect of the Goods supplied to the Purchaser.
- 4.5 Any Goods issued on loan shall remain the property of Skinstitut (Australia) Pty Limited. The Purchaser irrevocably authorises Skinstitut (Australia) Pty Limited to enter the premises where the Goods are stored at any time without notice to remove and repossess those Goods. Any loan Goods not returned on the request of Skinstitut (Australia) Pty Limited will render the Purchaser liable for the purchase price of the loaned Goods.

5. PROCEEDS OF SALE

If any of the Goods are resold by the Purchaser, the Purchaser holds all the book debts and proceeds in respect of such sales on trust for Skinstitut (Australia) Pty Limited and must keep the proceeds of sale in a separate account and not mix such proceeds with any other funds. Such part of the book debts and proceeds are deemed to be equal in dollar terms to the amount owed by the Purchaser to Skinstitut (Australia) Pty Limited at the time of the receipt of such book debts and proceeds.

6. SKINSTITUT (AUSTRALIA) PTY LIMITED MAY SELL AND RECOVER FROM PROCEEDS

Where Skinstitut (Australia) Pty Limited takes possession of the Goods upon default of the Purchaser, Skinstitut (Australia) Pty Limited may, should they choose to do so and without derogating from its rights under Clause 3:

- (a) sell the Goods by any means and at any time.
- (b) deduct from any proceeds of sale, all costs incurred in relation to the sale.
- (c) retain for its own use and benefit any part of the purchase price for those Goods which remains outstanding; and
- (d) apply any balance to monies owed by the Purchaser on any account (even if not due and payable) to the extent to which Skinstitut (Australia) Pty Limited has priority over other security interests.

7. INDEMNITY

The Purchaser must indemnify, and keep indemnified, Skinstitut (Australia) Pty Limited against all liability and loss, and all costs (including, without limitation, legal costs on a full indemnity basis), charges and expenses, Skinstitut (Australia) Pty Limited incurs as a result, whether directly or indirectly, of a breach of these terms and conditions.

8. NEGATIVE PLEDGE

The Purchaser shall not without the prior written consent of Skinstitut (Australia) Pty Limited enter into any security agreement with any other party that permits that party to register a security interest in respect of the Goods or proceeds of sale of the Goods.

9. ALLOCATION OF FUNDS

Skinstitut (Australia) Pty Limited may at their discretion and in such manner as they determine allocate payments made by the Purchaser for the Goods or any other amount that may be due to Skinstitut (Australia) Pty Limited by the Purchaser.

10. PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")

For the purposes of the PPSA:

10.1 Purchase money security interest –

Until the Purchaser has paid for the Goods in full (whereby the Purchaser will obtain legal title to the relevant goods), the Purchaser acknowledges that Skinstitut (Australia) Pty Limited holds a purchase money security interest in the following:

- (a) Goods supplied by Skinstitut (Australia) Pty Limited;
- (b) any new products into which the Goods supplied have been manufactured, processed, assembled or commingled such that their original identity is lost;
- (c) all proceeds in relation to the Goods referred to in (a) and (b) including without limitation money, accounts receivable and insurance proceeds; and

- (d) any products for which any of the Goods referred to in (a) and (b) have been exchanged or traded or that have been acquired in lieu of those goods, as security for the price payable by the Purchaser to Skinstitut (Australia) Pty Limited at any time for the Goods.
- 10.2 Security interest –**
The Purchaser acknowledges that Skinstitut (Australia) Pty Limited also holds a security interest in all of the Goods supplied by Skinstitut (Australia) Pty Limited to the Purchaser under these Terms and Conditions of Sale.
- 10.3 PURCHASER TO DO ALL NECESSARY FOR "PERFECTION"**
(a) If requested by Skinstitut (Australia) Pty Limited, the Purchaser shall promptly and without undue delay execute any documents, provide all information required in order to complete a Financing Statement (as defined under the PPSA) and comply with any other reasonable requests by Skinstitut (Australia) Pty Limited to ensure that Skinstitut (Australia) Pty Limited's purchase money security interest(s) and general security interest are perfected.
(b) The Purchaser shall immediately notify Skinstitut (Australia) Pty Limited in writing of any change in the Purchaser's name and shall also provide all information required in order to complete a Financing Change Statement (as defined under the PPSA).
- 10.4 PURCHASER WAIVES RIGHT TO RECEIVE VERIFICATION STATEMENT**
The Purchaser waives its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement in relation to Skinstitut (Australia) Pty Limited's security interests.
- 10.5 PURCHASER TO PAY ALL REGISTRATION FEES FOR FINANCING STATEMENT**
The Purchaser shall be responsible for all costs, expenses and other charges incurred, expended or payable by Skinstitut (Australia) Pty Limited in relation to the registration of a financing statement or a financing change statement.
- 10.6 OPT-OUT OF ENFORCEMENT PROVISIONS**
The Purchaser waives its rights under sections 95 (notice of removal of accession), 118 (enforcing security interests in accordance with land law decisions), 121(4) (enforcement of liquid assets), 125 (obligation to dispose of or retain collateral), 128 (secured party may dispose of collateral), 129 (disposal by purchase), 130 (notice of disposal), 132(3)(d) (contents of statement of account after disposal), 132(4) (statement of account if no disposal), 135 (notice of retention), 142 (redemption of collateral) and 143 (reinstatement of security interest) of the PPSA and the parties agree that those provisions do not apply to this Contract or any supply of Goods pursuant to this Contract.
- 11. DELIVERY PERIODS AND DATES**
11.1 All delivery periods and dates are approximate only and shall impose no obligation or liability upon Skinstitut (Australia) Pty Limited although Skinstitut (Australia) Pty Limited will do the utmost to meet such dates.
11.2 The Purchaser shall at no time be entitled to claim for damages for any delay in delivery.
- 12. FORCE MAJEURE AND OTHER HINDRANCES**
12.1 Any delay resulting from Acts of God or any other circumstances beyond the control of Skinstitut (Australia) Pty Limited shall entitle Skinstitut (Australia) Pty Limited to extend the delivery periods and Dates by a period equivalent to the delay, plus a reasonable further time, or alternatively entitle Skinstitut (Australia) Pty Limited to rescind any or all unperformed parts of this agreement. Strikes, lock-outs and other circumstances substantially impeding or precluding delivery shall also be regarded as an Act of God, regardless of whether such circumstances affect Skinstitut (Australia) Pty Limited directly or any of its suppliers.
- 13. WARRANTY AND LIMITATION OF LIABILITY**
13.1 Skinstitut (Australia) Pty Limited warrants that the Goods supplied are of merchantable quality but, to the extent permissible by law, Skinstitut (Australia) Pty Limited otherwise excludes all conditions and warranties implied by statute, general law or custom.
13.2 To the extent permitted by law, Skinstitut (Australia) Pty Limited liability shall be governed exclusively by the foregoing stipulations. All of the Purchaser's rights not explicitly stated herein including rights for damages – irrespective of all legal foundation – are fully excluded. Subject only to any express exceptions contained in these conditions, Skinstitut (Australia) Pty Limited shall under no circumstances be liable in any way whatsoever to the Purchaser for any form of loss, damage or expense sustained or incurred by the Purchaser or any other party in consequence of or resulting directly or indirectly out of the supply of Goods or services by Skinstitut (Australia) Pty Limited, any breach by Skinstitut (Australia) Pty Limited of any agreements or the negligence of Skinstitut (Australia) Pty Limited.
13.3 To the extent permitted by law, the Purchaser agrees that Skinstitut (Australia) Pty Limited's liability for any defective or damaged Goods, consequential loss or damage suffered by the Purchaser or liability for breach of any express term of these terms, or liability for breach of any statutory condition, is limited to the replacement of the relevant Goods or crediting the Purchaser with an amount equal to the invoice price.
- 14. MONEY BACK GUARANTEE**
14.1 The Purchaser acknowledges that it has received Skinstitut (Australia) Pty Limited's general Stockist Returns and Refund Policy, and will read such policy in connection with these terms and conditions. In the event of any inconsistencies, the terms of this agreement will prevail.
14.2 Skinstitut (Australia) Pty Limited offers a six (6) month money back guarantee from the date of account opening for all re-saleable Skinstitut skincare Goods purchased on the opening order, unless the agreement is terminated earlier in accordance with clause 2.4.
14.3 Skinstitut (Australia) Pty Limited is not obliged to accept the return of any Goods for credit without prior written agreement and limited to a reasonable time (7 days) from invoice.
14.4 Goods must be returned in current packaging, original packaging, undamaged and unmarked prior to any refund, at determination which remains at the discretion of Skinstitut (Australia) Pty Limited.
14.5 All cost associated with the return of Goods to the nominated Skinstitut (Australia) Pty Limited office shall be borne by the Purchaser.
- 15. MARKETING AND SALE OF GOODS BY THE PURCHASER**
15.1 The Purchaser is restrained from selling any of the Goods supplied to it by Skinstitut (Australia) Pty Limited over the internet, without obtaining the prior written approval of Skinstitut (Australia) Pty Limited, which approval will be granted in the sole and absolute discretion of Skinstitut (Australia) Pty Limited.
15.2 Skinstitut (Australia) Pty Limited does not support nor authorise any purchasers to supply or sell Skinstitut goods on internet auction websites such as eBay. Notwithstanding any other provision of this agreement, Skinstitut (Australia) Pty Limited reserves the right to immediately stop supply to any Purchaser found to be in breach of this agreement.
15.3 In the event that the Purchaser does sell any of the Goods supplied by Skinstitut (Australia) Pty Limited over the internet, the Purchaser agrees that such Goods are sold as Skinstitut fiduciary and agent and the entire proceeds of the sale of those Goods are held by the Purchaser on trust for Skinstitut and the Purchaser assigns the benefit of any claim against the customer and accounts fully to Skinstitut (Australia) Pty Limited for the proceeds of the sale.
- 16. TERMINATION**
16.1 This agreement and the rights and obligations under it will terminate in the event that:
(a) the Purchaser has not met the minimum requirements set out in clause 2.4, and Skinstitut (Australia) Pty Limited decides, in its reasonable discretion, not to re-activate the account in accordance with clause 2.5 of these terms, this agreement will be taken to have terminated on and from the date that Skinstitut (Australia) Pty Limited has notified the Purchaser that it will not re-activate the account;
(b) Skinstitut (Australia) Pty Limited otherwise decides, in its reasonable discretion, that it no longer wants to supply the Goods to the Purchaser, and has issued the Purchaser with at least one (1) written notice of termination;
(c) the Purchaser has requested, by providing at least two (2) months' prior written notice to Skinstitut (Australia) Pty Limited, that it no longer wishes to purchase the Goods;
(d) this agreement allows Skinstitut (Australia) Pty Limited to immediately stop the supply of Goods to the Purchaser, this agreement may terminate with immediate notice to the Purchaser;
(e) the Purchaser breaches a term of these terms and conditions and fails to rectify the breach within 14 days' of receipt of written notice from Skinstitut (Australia) Pty Limited; or
(f) either party becomes or trades insolvent, bankrupt, enters into voluntary administration or is wound up.
- 17. MARKETING AND PROMOTIONAL MATERIALS**
17.1 Skinstitut (Australia) Pty Limited may supply the Purchaser with marketing and promotional materials (including but not limited to logos, images and other materials, be they physical or electronic) relating to the Goods supplied. Skinstitut (Australia) Pty Limited reserves the right to direct the Purchaser to discontinue use of any such marketing and promotional materials previously supplied by Skinstitut (Australia) Pty Limited or obtained by any means, at any time and reserves the right to direct the Purchaser to return all such marketing and promotional materials to Skinstitut (Australia) Pty Limited immediately upon receipt of notice to that effect.
- 18. PERSONAL INFORMATION**
18.1 Any personal information, including personal financial information, that is collected, used or disclosed by Skinstitut (Australia) Pty Limited for the purposes of the sale or supply of Goods to the Purchaser is treated as confidential and will only be collected, used or disclosed in the following manner:
(a) for the purposes of meeting Skinstitut (Australia) Pty Limited obligations under these terms;
(b) to respond to any queries that the Purchaser may have;
(c) to recover any Goods or money owing to Skinstitut (Australia) Pty Limited;
(d) in accordance with the privacy policy of Skinstitut (Australia) Pty Limited; or
(e) in compliance with the requirements of the Privacy Act 1988 (Ch).

19 MISCELLANEOUS

19.1 Skinstitut (Australia) Pty Limited may make amendments or variations to this agreement; any such variation of these Terms and Conditions of Sale shall be issued by Skinstitut (Australia) Pty Limited in writing and can be signed by the parties.

19.2 These Terms and Conditions of Sale shall be consumed in accordance with and governed by the laws of New South Wales, Australia.

SIGNATURE IN AGREEMENT

PURCHASER AUTHORISED REPRESENTATIVE:

SIGNATURE

NAME

DATE

SKINITUT AUTHORISED REPRESENTATIVE:

SIGNATURE

NAME

DATE

PURCHASER INFORMATION

Trading Name:	
ABN/ACN:	
Address:	
Contact Name:	
Phone:	
Mobile:	
Email:	
Web address:	
Skinstitut BDM:	
Other Comments:	