

INSTRUCTIONS:

Fill out details in **BLOCK LETTERS**

ALL questions on this form must be completed in full, and must be received prior to the first order

No account may be opened in the name of an Employee - Owner/s name only

No account may be opened for a minor without a form of indemnity being completed, and such accounts must be limited to the agreed amount.

Return the signed original by post to:

Kao New Zealand Ltd, P.O. Box 26, Shortland St, Auckland, 1140

(Phone: 0800 567 465; Fax: 0800 567 467; Email: admin.nz@kao.com)

CHECKLIST

Before returning this form, check that you have:

- Completed the required details for the "Customer" section;
- Signed the relevant "Acknowledgement and Acceptance" section (company or non-company options) – including witnessing;
- Signed the "Privacy Act Acknowledgement" section – including witnessing;
- Signed the "Personal Guarantee" section – including witnessing;
- Completed the required details for the "Trade References" section;
- Completed the required details for the "Contact Details" section (Schedule 1);
- Read and understood the "Terms of Credit Agreement and Conditions of Sale" section (Schedule 2); and
- Initialled every page in the bottom right-hand corner.

CUSTOMER

Name of Business (Salon): _____ ("Customer")

Salon Address: _____ District/Suburb: _____ City: _____

Post code: _____ Phone #: _____ Fax No: _____

Salon Email: _____

Salon Website: _____ Mobile Number: _____

Is the owner of the business a (please tick): Sole Trader Partnership Company Trust Company

Name of company (if applicable): _____

New Zealand company reg no: _____ Date of registration: _____ No of staff: _____

ACKNOWLEDGEMENT AND ACCEPTANCE

TO BE COMPLETED BY A CUSTOMER WHO *IS* A COMPANY

I/We hereby acknowledge and accept the conditions of sale as per Terms of Credit Agreement- Schedule 2 and have read and understood this application and its contents and agree to all the undertakings, terms and conditions contained in this document.

SIGNED BY ALL THE DIRECTORS:

Signature _____

Signature _____

Name _____

Name _____

WITNESSED BY:

Signature _____

Name _____

Date: _____

ACKNOWLEDGEMENT AND ACCEPTANCE

TO BE COMPLETED BY A CUSTOMER WHO *IS NOT* A COMPANY (SOLE TRADER, PARTNERSHIP ETC)

I/We hereby acknowledge and accept the conditions of sale as per Terms of Credit Agreement- Schedule 2 and have read and understood this application and its contents and agree to all the undertakings, terms and conditions contained in this document.

SIGNED BY ALL INDIVIDUALS / PARTNERS / TRUSTEES:

Signature _____

Signature _____

Name _____

Name _____

WITNESSED BY:

Signature _____

Name _____

Date: _____

PRIVACY ACT ACKNOWLEDGEMENT

The Customer agrees that Kao New Zealand Ltd may, in accordance with the Privacy Act 1993:

- a) Give to a credit reporting agency personal information in relation to this application for commercial credit, including full name, sex, date of birth, current address, driver's licence number of the Customer's officers; and
- b) Obtain a credit reporting agency a credit report containing personal information concerning the Customer's officers about any of them in order to assess the application for commercial credit; and
- c) Give to and seek from credit providers named in this application or credit providers named in a credit information or information otherwise permissible under the Act for the following purposes:
 - 1) To exchange information with other credit providers as to the status of any payments under any agreement where the Customer is or may be in default with other credit providers;
 - 2) To assess this application for credit and/or the Customer's credit worthiness; and
 - 3) To notify other credit providers of any default by the Customer.

Signed by:

Authorised Signatory of the Customer

Signed by:

Authorised Signatory of the Customer

Witnessed by:

Signature _____ Name _____ Date: _____

PERSONAL GUARANTEE

1. In consideration of Kao New Zealand Ltd having agreed that the Director/s (being the persons whose signatures appear below) request to supply or to continue to supply goods and/or continue to give credit to the customer, the guarantor/s unconditionally and irrevocably guarantee/s jointly and severally (if applicable) the due and punctual payment to Kao New Zealand Ltd of all moneys now or in the future payable to Kao New Zealand Ltd by the customer.
2. This guarantee shall be a continuing guarantee and shall not be affected by any payment of moneys or settlement of account, granting time or any other indulgence to the customer or to any other director or to any other person, any arrangement between Kao New Zealand Ltd and the customer or any other person, failure or neglect to recover any money, any lack of power on the director/s part to give this guarantee the release discharge of transfer of security held by Kao New Zealand Ltd, any director not executing this guarantee or any other event, act of omission on anyone's part whatsoever.
3. The guarantee is a principal obligation and is enforceable notwithstanding that the moneys guaranteed may be irrecoverably owed by the Customer to Kao New Zealand Ltd.
4. This guarantee and the construction and the interpretations of it shall be governed by laws of New Zealand in force for the time being and from time to time, and the parties to this guarantee irrevocably submit generally and unconditionally to the jurisdiction of the courts of New Zealand in respect of all claims, proceeding and matters arising out of or in respect of this guarantee.

SIGNED BY ALL INDIVIDUALS / DIRECTORS / PARTNERS / TRUSTEES:

Signature _____

Signature _____

Name _____

Name _____

WITNESSED BY:

Signature _____

Name _____

Date: _____

TRADE REFERENCES

1. _____

Phone #: _____

2. _____

Phone #: _____

3. _____

Phone #: _____

Office Use Only		Sales Executive To Complete	
Account No: 55* _____		DL Level: _____	Salon Classification: (please circle) A B C D E G T R S T W Salon closed on: (please circle) Mon Tue Wed Thur Fri Salon opens at (please circle) 8.30am, 9am, 9.30am, 10am
Account Terms: _____		Territory: _____	
Date: _____		Channel: <u>Direct / Indirect</u> Pricing Level: High / Med / Low Cust Type: Salon / School / Wholesalers	
Date	Company	Spoke to	Comments
Approved by: _____		Signature: _____	Date: _____

**SCHEDULE 1
CONTACT DETAILS**

CONTACT DETAILS OF ALL INDIVIDUALS / DIRECTORS / PARTNERS / TRUSTEES OF THE CUSTOMER:

Surname: _____	Given Names: _____	Date of Birth: _____
Address: _____		
P/Code: _____	Home Phone #: _____	Mobile #: _____

Surname: _____	Given Names: _____	Date of Birth: _____
Address: _____		
P/Code: _____	Home Phone #: _____	Mobile #: _____

Surname: _____	Given Names: _____	Date of Birth: _____
Address: _____		
P/Code: _____	Home Phone #: _____	Mobile #: _____

Surname: _____	Given Names: _____	Date of Birth: _____
Address: _____		
P/Code: _____	Home Phone #: _____	Mobile #: _____

SCHEDULE 2 TERMS OF CREDIT AGREEMENT AND CONDITIONS OF SALE

Kao New Zealand Limited agrees to supply and the purchasers agree to order goods in accordance with the particulars set forth and the General conditions below:

1. **Interpretation** – in this agreement

"the Seller" means Kao New Zealand Limited and its successors;

"the Purchaser" means the applicant, firm or company so identified overleaf;

"Hairdressing Products" means the Seller's range of hairdressing and hair care products as current from time to time but excluding Hairdressing Equipment;

"Hairdressing Equipment" means barbers chairs, hairdryers, washbasins and other equipment used by hairdressers but excluding shampoos, solutions, chemical products and the like; and

"Goods" means Hairdressing Products and Hairdressing Equipment and includes all products and equipment referred to in any invoice issued by the Seller to the Purchaser at any time and from time to time and includes services where appropriate.

2. **Prices**

2.1 Prices quoted in the Seller's published price lists or by representatives of the Seller are subject to change without notice and are not binding on the Seller. All Goods are charged at the applicable price ruling at the date upon which the Goods leave the Seller's premises for delivery to the Purchaser.

2.2 Prices are net of freight and packing charges which shall be for the Purchaser's account.

2.3 The Purchaser shall pay, in addition to the price specified in clause 2.1 above, all applicable levies and taxes (including Goods and Services Tax) levied or imposed in respect of the supply and delivery of any Goods.

3. **Terms of Payment**

3.1 Where the Purchaser has a Credit Account, unless the Purchaser is otherwise notified by the Seller, Hairdressing Products must be paid for in full within **twenty (20) days from the date of statement to which the invoice relates. The Seller reserves the right at any time to vary the** period of credit on thirty (30) days prior written notice to the Purchaser. **Credit Card payments (15) days from invoice date the Seller reserves the right at any time to charge an administration fee at a rate of 5% for each transaction.**

3.2 If payment is not made on or before the due date, the Purchaser will be liable to pay the Seller default interest at the rate of **1.5% per month above the rate charged by the Seller's bank for commercial overdraft facilities (or such other rate** as is notified in writing by the Seller), on all money owing by the Purchaser to the Seller from the due date for payment until the date payment is received by the Seller. Payments made to the Seller shall be applied first in payment of default interest and secondly, in reduction of invoiced amounts.

3.3 To notify the seller of the change in the constitution or structure of the purchaser or the sale of the business operated by the purchaser and the purchaser agrees that it shall continue to be liable to the seller for any sum outstanding on the account opened and on behalf of the purchaser until written confirmation is received from the seller that it has been advised of the change of constitution or structure or the sale of the business and the account has been closed and full payment has been received.

3.4 When the Purchaser has a **Credit Account and is overdue with any payment or if the Seller is in receipt of bank or trade references which it regards as unsatisfactory, the Seller reserves the right to change the Purchaser to a Cash on Delivery (C.O.D) Account.**

3.5 Where the Purchaser has a C.O.D Account, Hairdressing Products must be paid for in full at the time of ordering to the Purchaser.

3.6 The Purchaser shall have no right of set-off in respect of any claims against the Seller.

3.7 **The Seller reserves the right to charge an administration fee when the Purchaser requests to pay by credit card.**

4. **Delivery**

4.1 Delivery items are ex warehouse Auckland.

4.2 The Seller shall use all reasonable endeavours to meet the Purchaser's requested delivery dates but the Seller shall not be liable to the Purchaser for any loss or damage whatsoever should it be delayed or prevented from delivering Goods or otherwise performing its contractual obligations due to any cause or circumstances beyond its control.

4.3 It is the Purchaser's responsibility to inspect all Goods upon delivery. The Seller shall not in any circumstances be liable for short delivery unless the Purchaser notifies the Seller in writing within fourteen (14) days of delivery.

5. **Retention of Title and Risk**

- 5.1 The Seller shall retain title to Goods supplied to the Purchaser until it has received payment in full. Goods belonging to the Seller shall be stored so that they are identifiable as such. That the Seller retains title to Goods until they have been paid for shall not affect its rights as an unpaid Seller. Furthermore, if payment is overdue the Seller shall be entitled to recover Goods belonging to it and the Seller and its duly authorised agents shall at all times and without notice be entitled to enter into the premises believed to be occupied by the Purchaser without any liability for trespass or other damage and recover there from the Goods the subject of this agreement but only if there is then an existing default in the terms of payment for such Goods.
- 5.2 If Goods belonging to the Seller are disposed of by the Purchaser or an insurance claim is made in respect of them, the Seller shall be entitled to trace the sale or insurance proceeds, which proceeds shall be held by the Purchaser in a separate bank account on trust for the Seller.
- 5.3 All risk in respect of Goods shall pass to the Purchaser upon delivery and the Purchaser shall insure (and keep insured) the Goods in its name and the Seller's name for their respective interests.

6. **Risk and Title**

The Purchaser agrees that:

- 6.1 Risk in the products but not title passes to the Purchaser upon delivery.
- 6.2 "PPSA" means the Personal Property Securities Act 1999 and its regulations.
- 6.3 The Products shall remain the sole and absolute property of the Seller until payment in full has been received by the Seller for all amounts due to the Seller in respect of all Products supplied to the Purchaser and all other amounts due to the Seller by the Purchaser under this Agreement.
- 6.4 Until such time as payment in full as provided by clause 3.1 is received by the Seller the Purchaser acknowledges and agrees that:
- 6.4.1 The Purchaser shall hold the Products as the bailee of the Seller;
- 6.4.2 The Purchaser shall at its own cost store the Products safely and in a way which clearly identifies the products as the property of the Seller;
- 6.4.3 The Purchaser shall keep the products fully insured;
- 6.4.4 The Purchaser may as fiduciary sell or otherwise dispose of the Products in the ordinary course of business in which case the proceeds of sale at all times shall be the property of the Seller and the Purchaser shall be accountable to and hold on trust for the Seller such proceeds of sale;
- 6.4.5 If the Products are incorporated in the manufacture or construction of other goods, the provisions of this clause shall continue to apply to the proceeds of those component goods;
- 6.4.6 The Purchaser will not permit the Products to become an accession (as defined in the PPSA) ;
- 6.4.7 The Purchaser's right to possession and to sell or otherwise dispose of the Products in the ordinary course of business may be revoked at any time by the Seller and shall automatically cease when the Purchaser is in default of any of its obligations to the Seller, including when the Purchaser is overdue in making payment of any sum due to the Seller;
- 6.4.8 The Purchaser irrevocably consents to the Seller entering the Purchaser's premises or any other premises where the Products are stored or where the Seller believes the Products are stored to inspect or remove the Products and for such purpose the Purchaser gives the Seller leave and licence without the necessity of giving any notice to enter if necessary forcibly any such premises to search for, take possession of and remove the Products without being liable in any way to the Purchaser and the Purchaser shall fully indemnify the Seller in respect of any claim or demand brought against the Seller in respect of such actions;
- 6.4.9 The Purchaser acknowledges that this clause creates a Purchase Money Security Interest ("PMSI") as defined in the PPSA in both present and after acquired products;
- 6.4.10 The Purchaser acknowledges receiving a copy of this document and waives all rights to receive from the Seller verification of any financing statement, or any other notice of any event prescribed by the PPSA;
- 6.4.11 (a) Nothing contained in Sections 114(1) (a), 117 (1) (c), 133 or 134 of the PPSA applies to the security interest created by this document;
- 6.4.12 (b) The rights of the Customer contained in Sections 116, 119, 120 (2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA do not apply to the security interest created by this document;
- 6.4.13 The PMSI has attached to the Products and has not been deferred or postponed;
- 6.4.14 The Purchaser will do all things and execute all documents as are necessary to ensure the Seller has a perfected first ranking PMSI in the products;
- 6.4.15 The Purchaser will immediately notify the Seller of any change of its name or address; and
- 6.4.16 The Purchaser indemnifies the Seller for any costs it incurs in registering, maintaining and enforcing the security interest created by this document.

7. **Cancellation and Return**

- 7.1 Subject to the Purchaser agreeing to **pay a cancellation charge equal to 20% of the price, the Purchaser may return Hairdressing Products for credit or replacement provided they are so returned to the Seller's premises, with the applicable invoice number quoted, within fourteen (14) days of delivery to the Purchaser.**

- 7.2 **Kao NEW ZEALAND LIMITED will not accept the return of any PROMOTION PRODUCTS for exchange or refund.**
- 7.3 The Purchaser may not return Hairdressing Equipment in any circumstances. Should the Purchaser cancel an order for Hairdressing Equipment before delivery the Seller reserves the right to forfeit any deposit.
- 7.4 The Seller reserves the right immediately to cancel any order or suspend any delivery without incurring any liability to the Purchaser if the Purchaser is in default of payment or if the Purchaser becomes bankrupt, enters into liquidation, makes a composition with its creditors, has a receiver or manager appointed of whole or any part of its assets of business or takes or suffers any similar action in consequence of debt.
- 7.5 **Kao NEW ZEALAND LIMITED will only accept the return of retail Hairdressing Products for exchange only.**

8. **Warranty**

- 8.1 The Seller warrants that the Goods will be free from defects in material and workmanship for a period of six (6) months from delivery. Provided the Purchaser makes a full inspection of Goods immediately upon delivery and notifies the Seller in writing of any defects it discovers the Seller shall, at its option, repair, replace or give a credit for the price of any Goods which are returned to the Seller's premises at the Purchaser's cost within the aforementioned six months period and which the Seller's examination confirms are defective.
- 8.2 If the Purchaser is, or holds itself out, as purchasing the Goods for the purposes of a business (as defined in the Consumer Guarantees Act 1993) it is hereby expressly agreed that the guarantees implied by the Consumer Guarantees Act 1993 are excluded. Other than as expressly required by law (including but not limited to the Consumer Guarantees Act 1993) and the warranty contained in clause 8.1, the Seller makes no other representation, warranty or condition, express or implied as to the nature or quality of the Goods or that the Goods are fit for any particular purpose, and any and all other representations, warranties and terms implied by any laws including but not limited to the Sale of Goods Act 1908, are excluded.
- 8.3 To the extent permitted by law, the Seller's liability shall be limited at its option to:
- (a) The replacement of the Goods or the supply of equivalent Goods; or
 - (b) The payment of the cost of replacing the Goods or acquiring equivalent Goods; or
 - (c) The payment of the cost of having the Goods repaired; or
 - (d) The repair of the Goods.

9. **Limitation of Liability**

- 9.1 To the extent permitted by law and subject only to any express exceptions contained in this Agreement, the Seller shall under no circumstances be liable in any way whatsoever to the Purchaser for any forms of damages, losses, costs, injury or harm sustained or incurred by the Purchaser or any other party in consequence of or resulting directly or indirectly out of the supply, performance or use of Goods or out of any breach, default of negligence of the Seller under or in connection with this Agreement.

10. **Non Availability of Stock** – While every effort will be made to fulfil the Purchaser's orders for Goods, the Seller shall not be liable for any loss or damage arising as a result of non-availability of stock.

11. **General**

- 11.1 Failure to enforce any term of this Agreement does not constitute a waiver and shall in no way affect the right later to enforce it.
- 11.2 The invalidity or unenforceability of any term of this Agreement shall in no way affect the remaining terms.
- 11.3 Clause headings are purely for ease of reference and do not form part of or affect the interpretation of this Agreement.
- 11.4 The Seller reserves the right to amend these General Conditions of Sale by written notice to the Purchaser and such amended conditions will thereafter apply to subsequently supplied Goods.
- 11.5 The construction, validity and performance of this Agreement shall be governed by the laws of New Zealand.

12. **Recovery of Legal Fees**

- 12.1 **The Purchaser will pay to the Seller upon written demand all legal costs (calculated as between solicitor and own client) and other costs, fees and charges howsoever incurred by the Seller in recovering payment of any monies due.**

13. **Privacy Act 1993**

The Purchaser consents to the Seller collecting, using and holding general credit information about the Purchaser and to disclosing that information to any third party in connection with credit management and control purposes. The Purchaser consents to the Seller using that information to market to the Purchaser other products and services offered or sold by the Seller.