



THE FACIAL ROOM – ONLINE TERMS & CONDITIONS

Welcome to our online store!

These Online Terms and Conditions (**Online Terms**) are between Riche Enterprises Pty Ltd t/as The Facial Room (ACN 608 422 439), its successors and assignees, (referred to as “**we**” or “**us**”) and you, the person, organisation or entity that purchases products from us (referred to as “**you**”), and collectively the Parties. These Online Terms apply to all sales made by us to you. These Online Terms are available at www.shop.thefacialroom.com.au (**Site**).

These Online Terms form the agreement under which we will supply products to you. Please read these Online Terms carefully. If you have any questions, please contact us using the contact details set out on the Site.

You accept our Online Terms by making a purchase from us. Your purchase from us indicates that you have had sufficient opportunity to access these Online Terms and contact us, that you have read, accepted and will comply with these Online Terms, and that you are 18 years or older, or have the consent of a legal guardian.

Our Privacy Policy sets out how we collect, use and protect your personal information and is available on the Site.

1. **Guest access and Registration:**

- (a) In purchasing products on the Site you may elect to create an account using a username and password (**Account**). We may require basic information from you when creating an Account. You agree to provide accurate, current and complete information during the registration process and to update such information to keep it accurate, current and complete. It is your responsibility to keep your Account details confidential. You are liable for all activity on your Account, including purchases made using your Account details.
- (b) Alternatively, you may checkout as a “guest” of the Site. If you checkout as a guest on the site, you will be required to provide your name, payment details and delivery address. Any information you provide will not be saved on our system.

2. **Products and Orders:**

- (a) You may order from us as set out on the Site. We may at our discretion accept or reject an order depending on factors including availability of products and our ability to validate payment for the products.
- (b) It is your responsibility to check the order details, including product and pricing, before you complete your order on the Site.
- (c) We will provide you with order details, which may include an order number, an order ID, the shipping and billing addresses and a description of what was ordered, when you order and pay on the Site and your payment has been validated.
- (d) A binding agreement comes into existence between the Parties once we have given you an order number.
- (e) You cannot cancel your order once it has been accepted.
- (f) Certain products featured on and sold via the Site contain active ingredients the use of which may be harmful to your person or cause you to experience a negative physical effect. We strongly recommend that you contact us and/or book a skin consultation with us prior to purchasing products on the Site.

- (g) You are solely responsible for determining the suitability of purchasing and using products featured on and purchased via the Site. We recommend having a skin consultation and facial with one of our qualified and trained therapists, before selecting and purchasing products. To the fullest extent permitted by law we exclude all liability for and will not be responsible for the products causing you or a third party to have an allergic reaction or experience an adverse skin or physical reaction or consequence.
- (h) Any information or recommendation we give to you or make available to you is general and should not be used as a substitute for medical treatment and/or advice. We accept no responsibility and will not be liable for any harm, loss, injury and/or damage that you or a third party suffer, directly or indirectly, as a result of any information or recommendation that is inaccurate, incomplete, unsuitable or misinterpreted.

3. **Price and Payments:**

- (a) You agree to pay the purchase price specified on the Site at the time that you place your order for the purchase of a product, plus any applicable delivery and insurance charges based on the delivery options selected by you. All amounts are stated in Australian dollars. All purchase prices include Australian GST (where applicable).
- (b) Any delivery and insurance charges will be separately shown on our Site and when you purchase the products.
- (c) You must pay for the product by one of the methods set out on the Site. Your payment will be processed upon receipt of your order. You must not pay, or attempt to pay, for an order through any fraudulent or unlawful means. If your payment is not able to be successfully processed then your order may be cancelled.

4. **Availability and Cancellation:**

- (a) All purchases made with us are subject to availability. We do our best to keep in stock most products and to keep the Site up to date with availability of products.
- (b) If there is a considerable delay in dispatching your order, or if for any reason we cannot supply a product you have ordered, we will contact you using the contact details provided by you when you placed the order. You can choose a refund, store credit or to put your order on backorder. If you choose a refund or store credit, any delivery costs you have paid for the product will be refunded to you. If you choose to put your order on backorder, we will contact you to arrange for supply/delivery once the product is available.

5. **Shipping and Delivery:**

- (a) **Location:** We deliver Australia wide. Please refer to the delivery information on the Site to check that you are in our delivery area. If you are not in our delivery area please contact us to discuss delivery options.
- (b) **Cost:** We offer free delivery for certain products to certain areas, as set out on the Site. If free delivery does not apply, a delivery fee will apply, as set out on the Site.
- (c) **Timing:** We will normally dispatch the product within 3 business days from the receipt of your order, unless otherwise noted on the Site. Any delivery periods displayed on the Site are estimates only, based on the information provided by the delivery company. We will deliver the product to the place of delivery you specify when making your order.
- (d) **Change:** If you need to change a delivery date or the delivery address, please contact us as soon as possible to see if this is possible. If you are not available to take delivery on the agreed delivery date, you may be charged a delivery fee for each additional attempt for delivery.
- (e) **Method:** We may deliver the products via a range of delivery methods. All deliveries must be signed for. If neither you nor your authorised representative is at the delivery address to accept delivery you will be notified, generally by the delivery company leaving a card with contact details, so that you can arrange another delivery time and date.
- (f) **Title and Risk:** Title in the products will not pass to you until the later of delivery, or your payment has been processed or otherwise received by us. If your payment is declined for any reason we reserve the right to reclaim the products from your possession, custody or control even if they have been delivered to you or moved from the delivery address. We

reserve the right to keep or sell the products. Risk of loss, damage or deterioration to any products will pass to you once the product is delivered to the address you provide.

6. **Discount Codes and Promotions:**

- (a) We may from time to time offer promotional discount codes, which may be applicable to products on the Site, and must be entered at the time of submitting your order. The conditions of use relating to any discount code will be specified at the time that it is issued.

7. **Our Refunds and Returns Policy**

- (a) **Product selection:** We do not recommend purchasing products until you have had a skin consultation and facial with one of our therapists. We are not liable for any adverse skin reaction to a product purchased on the online store, unless it has a fault, or unless one of our therapists prescribed the product.
- (b) **Repair, replacement or refund:** If you wish to seek repair, resupply, replacement or a refund for a product, please contact us and we will explain the requirements to you. This may include you providing proof of purchase and evidence of the faulty product to us. If your product is faulty, we will provide free postage for the return of your product.
- (c) **Returns:** We accept returns 14 days from the date of purchase and as otherwise required under the ACL. The product must not be opened, used or damaged in any way, must be in original packaging, and you must provide the receipt with the returned item. Opened products cannot be returned, unless the ACL consumer guarantees apply. Please email info@thefacialroom.com.au when you are returning your product. Once we have accepted the return via email, please post the item(s) using registered mail, as we are not liable for your returned item(s) lost in transit. Post the product with your receipt/order to:
The Facial Room
Att: Returns Department
Shop 4, 863 Bourke St,
Waterloo NSW 2017
- (d) **Refund:** If you are entitled to a refund, we will provide the refund once evidence of fault is received by us, or we have received the product at our warehouse and have inspected it and assessed whether it is eligible for a refund under these Online Terms. Once a returned item has been accepted we will issue a refund using the same method you originally paid for the item. We cannot refund a product for change of mind or incorrect product choice. Please choose carefully and unless you have been prescribed the product by one of our therapists and this is on our record system, we are not able to provide a refund due to a skin reaction. These products contain active ingredients and can cause irritation if incorrectly used. If a product prescribed by one of our therapists results in an adverse skin reaction, a claim, including photographic evidence, must be filed within four (4) weeks of purchase and provided to us. A research report may also need to be completed, to be provided to the manufacturer.
- (e) **Packaging:** You are responsible for arranging the return delivery of any products. You must adequately package any product you are returning to ensure that it is not damaged during return delivery to our warehouse.
- (f) **Duty of care:** You have a duty of care for the product while it is in your possession. Subject to these Terms and the ACL, if you open, use or damage products, then subsequently return the product no refund, repair or replacement will be given.

8. **Intellectual Property Rights**

- (a) Intellectual Property Rights mean all present and future rights in or to any patent, copyright, database rights, registered design or other design right, utility model, trade mark (whether registered or not), brand name, service mark, trade name, eligible layout right, chip topography right and any other rights of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether

registrable or not, including all renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights (**Intellectual Property Rights**).

- (b) We own all Intellectual Property Rights in the Site, business, products, and branding, as between us and you. The products contain material which is owned by or licensed to us and is protected by Australian and international laws (**Materials**). We own the copyright which subsists in all creative and literary works incorporated into our Materials.
- (c) You must not breach our Intellectual Property Rights by, including but not limited to altering or modifying any of the Materials, creating derivative works from the Materials or using our Materials for commercial purposes such as on-sale to third parties

9. **Dispute**

- (a) Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about our products, please contact us. If there is a dispute between the Parties in relation to these Sale Terms, the Parties agree to the following dispute resolution procedure:
 - i. The complainant must tell the respondent in writing the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them (**Initial Meeting**).
 - ii. If the Parties cannot agree how to resolve the dispute at that Initial Meeting, any party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, the complainant will ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- (b) Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Online Terms, by law or in equity.

10. **Consumer Law, Return, Refund and Exchange Policy**

- (a) **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010* (Cth) and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the supply of products and related services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- (b) **Goods & Services:** If you are a consumer as defined in the ACL, the following notice applies to you: "Our goods and services come with warranties and guarantees that cannot be excluded under the Australian Consumer Law (**Consumer Guarantees**). You are entitled to a replacement or a refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. You are also entitled to have services remedied if they are not rendered with due care and skill or they are not fit for purpose and the failure does not amount to a major failure."
- (c) Nothing in these Online Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our liability for goods provided to a person or entity defined as a "consumer" under the ACL is governed solely by the ACL and these Online Terms. We exclude all conditions and warranties implied by custom, law or statute except for your Statutory Rights.
- (d) **Seller:** Except for your Statutory Rights, all products are provided to you without warranties of any kind, either express or implied, and we expressly disclaim all warranties of any kind including but not limited to implied warranties of merchantability and fitness for a particular purpose.
- (e) **Manufacturer:** Products may come with a manufacturer's warranty. The manufacturer's warranty is in addition to but may overlap with any rights and remedies you may have under

applicable law, including any Consumer Guarantees. If you are not considered a "consumer" within the meaning of the ACL, the manufacturer's warranty may be your sole remedy. You should check the manufacturer's warranty, as many manufacturers' warranties do not apply in a business or commercial setting. Please contact the manufacturer if you would like to make a claim under the manufacturer's warranty.

11. **Limitation of Liability and Disclaimers:**

- (a) While the information and material contained on the Site is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we and our directors, officers, employees, contractors and agents accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of the information contained on the Site.
- (b) To the extent permitted by law, we exclude all conditions and warranties, except for your Statutory Rights including but not limited to:
 - i. we expressly disclaim any implied or express guarantees, representations or conditions of any kind, which are not stated in these Online Terms;
 - ii. we take no responsibility for, and will not be liable for the Site or the being unavailable; and
 - iii. we will not be liable for any loss, damage, injury, death, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, loss of programs or other data on your information systems or costs of replacement goods, or otherwise, suffered by you or claims made against you, arising out of or in connection with the Site, inability to access or use the Site, the products, the late supply of products, or these Online Terms, even if we were expressly advised of the likelihood of such loss or damage.
- (c) To the extent permitted by law, our total liability arising out of or in connection with the products or these Online Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the total price paid by you for the purchase of products under these Online Terms.
- (d) This clause will survive the termination of these Online Terms.

12. **Amendment:** These Online Terms may be amended from time to time. The amended Terms will be made available to you on the next occasion that you purchase products via the Site and in such an event prior to processing your payment. Your purchase from us following any such amendments will be deemed to be confirmation that you accept those amendments. We recommend that you check the current Online Terms before purchasing a product. Our agents, employees and third parties do not have authority to change these Online Terms.

13. **Indemnity:** You indemnify us from and against all claims, suits, demands, actions, liabilities, costs and expenses (including legal costs and expenses on a full indemnity basis) resulting from your breach of these Online Terms. You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our products including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us. The obligations under this clause will survive the termination of these Online Terms.

14. **General:**

- (a) **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.

- (b) **Accuracy:** While we endeavour to keep information up to date and correct, we make no representations, warranties or guarantee, express or implied, about the completeness, accuracy, reliability, suitability or availability of any information, images, or related graphics contained on the Site for any particular purpose. You hereby acknowledge that such information and materials may contain mistakes, inaccuracies or errors and we expressly exclude any liability for such to the fullest extent permissible by law.
- (c) **Termination:** We reserve the right to refuse supply of the products ordered by you, terminate your account, terminate our contract with you, and remove or edit content on the Site at our sole discretion, without incurring any liability to you. We may terminate your account and our contract with you, in our sole discretion, without incurring any liability to you, if:
 - i. you commit a non-remediable breach of these Online Terms;
 - ii. you commit a remediable breach of these Online Terms and do not remedy the breach within a reasonable time after receiving written notice of the breach.
- (d) **GST:** If and when applicable, GST payable on our products will be set out in our invoices. By accepting these Online Terms you agree to pay us an amount equivalent to the GST imposed on these charges.
- (e) **Relationship of Parties:** These Online Terms are not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.
- (f) **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Online Terms if such delay is due to any circumstance beyond our reasonable control.
- (g) **Notice:** Any notice in connection with these Online Terms will be deemed to have been duly given when made in writing and delivered or sent by email or post to the Party to whom such notice is intended to be given or to such other address or email address as may from time to time be notified in writing to the other Party.
- (h) **Waiver:** Any failure by a Party to insist upon strict performance by the other of any provision in these Online Terms will not be taken to be a waiver of any existing or future rights in relation to the provision. No waiver by us of any of these Online Terms shall be effective unless we expressly state it is a waiver and we communicate to you in writing.
- (i) **Assignment:** You must not assign any rights and obligations under these Online Terms, whether in whole or in part, without our prior written consent.
- (j) **Severability:** If any of these Online Terms are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.
- (k) **Jurisdiction and Applicable Law:** Your use of the Site and any dispute arising out of your use of it is subject to the laws of New South Wales and the Commonwealth of Australia. These Online Terms are governed by the laws of New South Wales and the Commonwealth of Australia and subject to the exclusive jurisdiction of the courts operating in New South Wales. The Site may be accessed throughout Australia and overseas. We make no representation that the Site complies with the laws (including intellectual property laws) of any country outside Australia. If you access the Site from outside Australia, you do so at your own risk and are responsible for complying with the laws in the place where you access the Site.
- (l) **Entire Agreement:** These Online Terms and any document expressly referred to in them represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.

For any questions or notice, please contact us at:

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