

## 1. AGREEMENT

- 1.1. Our Registration Form and these terms and conditions (**Terms**) form the basis of the agreement between you, the customer (**you, your**) and Amelie's Corner Limited (**we, us, our**) and apply to the provision of all Services by us to you.

## 2. DEFINITIONS

2.1. The following terms shall have the following meanings:

**Appointment** has the meaning set out in clause 3.1.

**Disclaimer** means the disclaimer on the Registration Form and as set out in clause 7.3.

**Intellectual Property** means all intellectual and industrial property rights and interests (including common law rights and interests) including, without limitation:

- (a) trade marks, applications for trademarks, trade name(s);
- (b) know-how, being technical and other information or experience or trade secrets;
- (c) designs, whether or not registered or protected by copyright;
- (d) patents and applications for patents;
- (e) copyright material; and
- (f) other intellectual property.

**Price** means the price payable for the Services pursuant to our standard price list unless agreed otherwise in writing. All prices are inclusive of GST if any.

**Registration Form** means our registration form to be completed and signed by you.

**Services** means the services that we agree to provide to you from time to time, including, but not limited to:

- (a) skin analysis consultation and makeup consultation;
- (b) makeup demonstration, tutorial and video recording; and
- (c) any other Services we agree to provide you from time to time which are not excluded by our Disclaimer.

**Video Recording** means any video recording we produce as part of the Services.

**Website** means [<https://www.amelies.co.nz/>]

## 3. SERVICES AND PAYMENT

- 3.1. **Appointment:** You may request us to undertake Services for you by arranging an appointment for Services with us via telephone or email (**Appointment**). We will agree the Services to be undertaken at any Appointment and confirm these with you in writing.
- 3.2. **Acceptance:** You acknowledge that our acceptance of an Appointment is subject at all times to our sole discretion. If we accept your Order, you agree to pay a deposit of 40% of the Order value, within 24 hours after our acceptance of your Order. Except as expressly set out in these Terms, the deposit is non-refundable and is in part payment of the Services.
- 3.3. **Price and Invoice:** You agree to pay the Price for the Services. We will issue an invoice to you for the Price at the time that an Appointment is accepted by us. Payment for the Services must be received by us up to 48 hours prior to the Appointment. The Services will not be performed until payment of the Price has been received in full, if payment is not received then the services will be considered cancelled in accordance with clause 4.
- 3.4. **Payment:** Unless otherwise specified by us in writing, all invoices for Services shall be paid by electronic bank transfer to our bank account as provided for in our invoice.
- 3.5. **Delivery:** The Services shall be provided at our place of business [The address will be sent to you via email, upon booking] or as otherwise agreed in writing.

#### 4. CANCELLATION POLICY

- 4.1. **Cancellation by us:** We may cancel any Services by giving notice to you in writing at any time, and pay a full refund of any amounts paid by you in relation to the cancelled Services. We may also reschedule the Services to another date, if the new date is not acceptable to you, then you may cancel the Services by notifying us in writing, and we will provide a full refund of any amounts paid. If you accept the rescheduling, then you will not be entitled to any refund (in full or in part).
- 4.2. **Cancellation by you:** If we have accepted an Appointment for Services with you and you have paid the Price then the Services may be cancelled by providing notice to us, but the following cancellation policy may apply:
- (a) if cancelled up to 48 hours prior to the date the Services are to be performed then we shall refund 60% of the Price paid by you;
  - (b) if cancelled within 48 hours prior to the date the Services are to be performed then no refund of the Price will be provided.
- 4.3. **Rescheduled Appointment:** In the event that you request to reschedule the Services to a date other than the Appointment date, then we shall, at our sole discretion consider your request to reschedule the Services to another date. If we are unable to arrange an agreed date to reschedule or you choose to cancel your Appointment then the cancellation policy at clause 4.2 shall apply.
- 4.4. **Late Arrival:** Where you arrive more than 30 minutes after the agreed Appointment time we may cancel the Services, or at our sole discretion undertake the agreed Services in the remaining Appointment time. Where you fail to attend your Appointment no refund will be given.

#### 5. VIDEO RECORDING

- 5.1. **Link:** Where the Services include us creating a Video Recording then a link to the Video Recording will be made available for you to view as part of our Services. We shall provide you with a link to the Video Recording (**Link**) at a website based provider site (**Provider**) as used by us from time to time. We shall endeavour to have the Video Recording available for 260 of weeks. However, we do not guarantee that the Link will be available for any specified amount of time nor do we provide any warranties in relation to the service provided by the Provider. The Video Recording may be removed by the Provider or us at any time.
- 5.2. **Privacy:** We do not warrant that the Video Recording is private or secure. It is possible that the Video Recording may be accessed by third parties. You consent to the Video Recording being uploaded and acknowledge that the Video Recording is not private or secure and may be viewed by third parties.

#### 6. FAILURE TO COMPLY

- 6.1. If you fail to pay the Price pursuant to clause 3.3, or are otherwise in breach of these Terms, we may, in our sole discretion, without prejudice to and in addition to any other rights and remedies, do any one or more of the following by written notice to you:
- (a) suspend provision of the Services;
  - (b) cancel any Appointment;
  - (c) terminate (in whole or in part) the supply of the Services; or
  - (d) terminate these Terms.

#### 7. WARRANTIES AND LIABILITY

- 7.1. **Consumer Guarantees Act 1993:** If you are a consumer, then you acknowledge that the Consumer Guarantees Act 1993 or Fair Trading Act 1986 apply. You may have other rights in addition to

Consumer Rights, however such other rights are, to the extent permitted by applicable law, subject to the limitations of liability set out in clause 7.2 (**Other Rights**).

- 7.2. **Limitation and Exclusion of Liability:** The following limitations and exclusion of liability apply in respect of any Other Rights You have:
- 7.2.1. We will not be liable to you whatsoever for any matter that we have excluded liability for within these Terms, the disclaimer set out in clause 7.3 below, any indirect loss, consequential loss, loss of profit, loss of bargain, loss of business opportunity or exemplary damages suffered by either party or any other person, loss arising out of or flowing from any pre-contractual misrepresentation, forecast or breach of these Terms and Conditions, whether contemplated these Terms or not, and whether actionable in contract, tort (including negligence), equity or otherwise.
- 7.2.2. If notwithstanding clause 7.2.1, we are found liable to you or any third party for any loss or damage, however caused (including through negligence), our maximum liability to You in aggregate will be limited to \$1,000.
- 7.3. **Disclaimer:** Any makeup and skin care advice we provide as a result of the Services is not intended to be a substitute for any dermatologist or medical skin care advice. You agree that we are not providing medical or dermatologist advice in relation to skin care, allergies or any other medical matter whatsoever. It is your sole responsibility to have tested the products used on your skin prior to us undertaking the Services. Where you have an allergic or adverse reaction to a skin product or where you have indicated an allergy on this form it is your sole responsibility to consult your medical practitioner or a specialist dermatologist in the first instance. You agree to us undertaking our Services at your own risk and any action or claim cannot be brought against us for any medical consequences arising out of any allergic reactions or medical issues whatsoever associated with us performing the Services.

## 8. PRIVACY

- 8.1. You agree that we may collect, use and disclose your personal information for purposes related to your dealings with us including but not limited to the supply of the Services, direct marketing, social media and provision of information about the Services. You have rights under the Privacy Act 2020 to access any personal information that we hold and to request the correction of such personal information. In addition you consent to us providing electronic marketing messages to you, unless you opt out by notifying us in writing or unsubscribing.

## 9. INTELLECTUAL PROPERTY

- 9.1. **Ownership:** You acknowledge that we are the owner or licensee of all intellectual property rights in the Services and any material, or content created in the course of performing the Services. For the avoidance of doubt we own all intellectual property rights in relation to any Video Recording.
- 9.2. **Use:** You shall not, except with our prior written permission, reproduce, copy, distribute, exploit for your own or any other commercial purposes any of the materials or content owned by us or any of our licensors, including any Video Recording, or otherwise infringe our intellectual property rights.

## 10. DISPUTE RESOLUTION

10.1. In the event of any dispute between the parties in relation to these Terms the parties will first seek to resolve such dispute by promptly giving notice of such dispute to the other party and cooperatively endeavouring to resolve such dispute. If the dispute remains unresolved the parties may seek a resolution through the use of mediation prior to seeking resolution through the Courts.

## 11. MISCELLANEOUS

**Amendments:** We may amend these Terms at any time, by notifying you in writing or displaying our new Terms on our Website. The amended Terms shall apply in respect of when you next engage our Services. Your continued ordering of Services from us will be deemed acceptance of the changes.

- 11.1. **Force Majeure:** We will not be liable for delay or failure in the performance of any of the obligations imposed by these Terms, provided that such failure will be occasioned beyond the reasonable control and without the fault or negligence of us.
- 11.2. **Governing Law:** These Terms are governed by the laws of New Zealand. Subject to clause 10, the parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.
- 11.3. **Notices:** Any notices required to be given by the parties pursuant to these Terms will be given at the addresses set out in the parties' description, the parties' registered address or other address notified from time to time.
- 11.4. **Assignment:** You will not assign or otherwise transfer or encumber your rights or obligations under these Terms except with our prior written consent.
- 11.5. **Waiver:** No waiver of any provision of these Terms will serve as a waiver of any other provision of these Terms nor as a continuing waiver of such provision and We will not have waived or deemed to have waived any provision of these Terms unless such waiver is in writing and signed by Us.
- 11.6. **Survivorship:** Termination of these Terms for any reason will not affect such rights and obligations of the parties as are intended to survive the termination.
- 11.7. **Variation:** No alteration or variation of these Terms will be binding on us unless we authorise in writing.
- 11.8. **No partnership:** These Terms do not create any relationship of partnership, agency or joint venture between the parties.
- 11.9. **Severability:** Should any part or provision of these Terms be held unenforceable or in conflict with any applicable laws or regulations, the invalid or unenforceable part or provision will be replaced with a provision which accomplishes, to such extent as possible, the original business purpose of the part or provision in a valid and enforceable manner, and the remainder of these Terms will remain binding on the parties.
- 11.10. **Counterparts:** These Terms may be executed in counterparts (which may be electronic or facsimile copies) and all of which, when taken together constitute the one document.
- 11.11. **Entire Agreement:** These Terms constitute the sole understanding of the parties and supersedes all prior understandings, written or oral, which will be of no further force or effect.