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**Bartercard Members Trading Portal**

**Terms and Conditions**

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**[members.bartercard.com](http://members.bartercard.com)**

**Bartercard Members Trading Portal**

**May 2010**

**Index**

1 OVERVIEW ..... 3

2 RIGHTS AND OBLIGATIONS ..... 4

3 PARTICIPATION IN WEBSITE SERVICES..... 5

4 THE ONLINE AUCTION AND EMARKETPLACE..... 8

5 RULES ABOUT DELIVERY..... 17

6 DISPUTE PROCEDURE..... 22

7 STATEMENTS ONLINE..... 24

8 SMSPOS FACILITY..... 25

9 BARTERCARD TRANSACTIONS ONLINE ..... 27

10 CREDIT CARD PAYMENTS..... 28

11 SPECIFIC WARNINGS & DISCLAIMERS..... 29

12 PRIVACY POLICY ..... 34

13 INTELLECTUAL PROPERTY..... 38

14 GENERAL PROVISIONS & TERMINOLOGY ..... 39

## **1 OVERVIEW**

- 1.1 Welcome to the Bartercard Members Trading Portal Terms and Conditions (hereafter called “Terms and Conditions”) provided by this Agreement. This Agreement sets out the Terms and Conditions that govern the use of this website, and other applications linked to by this website, including but not limited to participation in the Online Auction, eMarketPlace and use of the transaction processing tools, Statements Online or any other online information that may be provided by other parties including your Bartercard Licensee.
- 1.2 In using this website and any other online Bartercard service, you agree to be bound by these Terms and Conditions and any Policies published on this website.
- 1.3 You must ensure that you are aware of the Terms and Conditions (in particular in respect of the fees chargeable), and Disclaimers and important notices herein, as they are binding legal agreements.
- 1.4 If you do not accept these Terms and Conditions, you must refrain from using the website.
- 1.5 Where there is any express conflict or inconsistency between these Terms and Conditions and your obligations as a Member of the Bartercard Trading Program to the extent of such express conflict or inconsistency, these Terms and Conditions shall prevail for the purposes of the use of this website.
- 1.6 We hope you enjoy the Bartercard Members Trading Portal Online experience.

## **2 RIGHTS AND OBLIGATIONS**

### **2.1 Your Use of Our Services:**

- (a) We provide this website, the Bartercard Members Trading Portal, as a platform for you to enter and access a plethora of online facilities and services. The only facilities/services we provide are the Online Auction and eMarketPlace. All other facilities/services are provided independently of us by other parties including your Bartercard Licensees.
- (b) We are not, under any circumstances, liable to you for any loss, damage, directly or indirectly you or your business may suffer as a result of your use of any service/facility available in this website.
- (c) We reserve the right to amend these Terms and Conditions from time to time. Amendments will be effective immediately upon Notification on this website. Any continued use of this website will constitute acceptance of any updated Terms and Conditions.
- (d) All amended Terms and Conditions will automatically be accepted on entering the Bartercard Members Trading Portal. If you do not agree with these changes you must cease all use of this website.
- (e) We have the right to suspend, ban or refuse any entry to this website, the Bartercard Members Trading Portal, for whatsoever reason and we are not required to provide any reasons for the decision.

### **3 PARTICIPATION IN WEBSITE SERVICES**

#### **3.1 Who May Participate:**

- (a) Only a Member of the Bartercard Trading Program who is eighteen (18) years or over and acceptable to Bartercard International may participate in the use of the Bartercard Members Trading Portal.
- (b) Only a Bartercard Member who has a valid email address that accepts emails from the Bartercard Members Trading Portal may participate in the use of the Bartercard Members Trading Portal.
- (c) Only a Bartercard Member who has JavaScript running on the computer may participate in the use of the Bartercard Members Trading Portal.

#### **3.2 Acknowledgement:**

By accepting the Terms and Conditions you acknowledge and agree:

- (a) Bartercard International is not involved in the actual transaction between the Seller and the Buyer. As a result Bartercard International has no control over quality, safety or legality of items or content posted by Users on our site or the truth or accuracy of listings. Any transactions conducted online are solely between the Buyer and the Seller, and all responsibility and liability in respect to the transaction of the sale is between the two parties.
- (b) When you enter into a transaction you create a legally binding contract with another User unless the item is prohibited by law or this Agreement or our Policies. You must ensure that you are aware of the laws relevant to you as the Buyer or Seller. If another User breaches any obligations to you, you (not Bartercard International) are responsible for enforcing any rights that you may have.
- (c) Any loss that occurs to either party is in no way any fault of Bartercard International and you hereby indemnify and hold harmless Bartercard International from any such loss.
- (d) Bartercard International may plead this Agreement as a bar to any claim, action, proceedings or suit brought by you against Bartercard International for any matter arising out of any transaction in respect of this Agreement.
- (e) By registering on the website you may be automatically eligible for and/or entered into competitions, prizes and awards and therefore as a User you consent to any Terms and Conditions that are associated with that competition, prize and/or award.

**3.3 Consent:**

You hereby consent to:

- (a) Allow Us to:
  - (i) Use details or information about your listings on the website as promotional material to be sent to Bartercard International staff, Bartercard Licensee staff and Bartercard Members within the Bartercard Trading Program worldwide;
  - (ii) Send to you or inform other Users of Personal Information including but not limited to your:
    - A - Email address
    - B - Phone number
    - C - Contact name
    - D - Or, any other correspondence data that may aid in a transaction being completed in accordance with the Terms and Conditions; and
  - (iii) Send you promotional material about sales information from other Users.
- (b) Accept emails that directly relate to your bid, purchase, decline or any other transactional information from the website.

**3.4 Censorship:**

Some content may be objectionable to a User in a particular country. Bartercard International has the power and discretion to remove such objectionable content.

**3.5 Username and Password:**

Upon registering, you will be requested to select a Username and Password. You are responsible for maintaining the confidentiality of your Password and are fully responsible for all activities that occur under your Username.

**3.6 Security:**

- (a) Notify Unauthorised Use:

You must notify Bartercard International immediately of any unauthorised use of your Username, or any other breach of security.
- (b) Logging Out:

It is your responsibility to ensure that you log out completely at the end of each User session.

(c) Use Site for Trading Only:

No communications other than for enquiry relating to items listed on the website shall be permitted within the website. This includes the use of the email User functions provided and harvesting of email addresses.

3.7 Warranty and Indemnity by You as a User:

(a) Warranty:

As a User you warrant that:

Your registration details are true and accurate at all times and shall remain true and accurate during all material times.

(b) Indemnity:

You as a User agree to indemnify Bartercard International against any liability which we may incur to a Third Party whatsoever, howsoever and to whosoever arising out of any breach of your warranties and out of the use of these online Website Services whether according to contract, tort or legislation.

## **4 THE ONLINE AUCTION AND EMARKETPLACE**

### **4.1 The Bartercard Members Trading Portal is Only a Venue:**

Users of the website acknowledge and accept that Bartercard International is only a facilitator/venue and not an auctioneer for transactions to occur; Bartercard International is not in any way:

- (a) To be considered a Seller of any items or services on the website unless expressly stated otherwise by Bartercard International.
- (b) Endorser/promoter or representer of the truthfulness or accuracy of any statement made on the website and accordingly all legal relations are between you and the other party.
- (c) To be considered involved in the actual transaction between the Seller and the Buyer. As a result Bartercard International has no control over quality, safety or legality of items or content posted by Users on our site or the truth or accuracy of listings. Any transactions conducted online are solely between the Buyer and the Seller, and all responsibility and liability in respect to the transaction of the sale is between the two parties.

### **4.2 Seller's Listing:**

The Seller acknowledges and accepts that they are making an irrevocable offer to treat to the Highest Bidder (above the reserve price if applicable – see clause 4.13 (b)) on the Online Auction or to the Buyer willing to purchase at the set price and quantity on the eMarketPlace.

### **4.3 Seller's Specification on Sale:**

Users acknowledge that once the Seller makes the choice as to the conditions of the sale and selects "Post Listing", this constitutes an irrevocable offer to treat to the world at large. It is capable of acceptance by a Buyer who clicks "Bid Now" or "Buy Now". Once the Buyer clicks "Bid Now" or "Buy Now", that is an irrevocable acceptance of the Seller's conditions and the Buyer must comply with those conditions and pay the purchase price if necessary. It is not an offer to negotiate; it is now a legally binding contract.



**4.4 Seller/Shipping Costs:**

The Seller has the choice to list the item with the following selection of:

- (a) Seller to pay Shipping Costs: The Seller is responsible for all aspects of delivery including packing and sending the item to the Buyer's delivery address and shall pay the cost.
- (b) Buyer to pay Shipping Costs: It is the Buyer's responsibility to pay for the shipping either before or after delivery (as agreed to by both parties).
- (c) Email: Shipping Costs not applicable.

**4.5 Shipping Limits:**

It is your responsibility as the Seller to list the correct Shipping Costs and Shipping Limits. It is your responsibility as the Buyer to ensure that you know and agree to the Shipping Costs and Shipping Limits BEFORE placing a bid or making a purchase.

**4.6 If Buyer is outside of the Seller's Shipping Limits:**

Buyer is to contact Seller offering collection/despatch options prior to placing a bid on an Auction item or prior to selecting "Buy Now" in eMarketPlace. The Seller is not obligated to accept the Buyer's options.

**4.7 Currency:**

You are participating in an international transaction site. Items are listed in the currency of the Seller. Currency is denoted by the country's three letters before the T\$ symbol, for example:

- AUD – Australian Dollar – Australia
- EUR – Euro – Cyprus
- NZD – New Zealand Dollar – New Zealand
- THB – Thai Baht – Thailand
- AED – United Arab Emirates Dirham - UAE
- GBP – Great British Pound – United Kingdom

4.8 Prohibited Items:

You acknowledge that this website is not made available for Online Auction and eMarketPlace sales involving items prohibited by law. You warrant that you will not list or bid on or buy items prohibited, either by Bartercard International or by law including the following unless you are appropriately licensed or authorised by the relevant regulator or authority or Bartercard International and/or a Bartercard Licensee:

- (a) Illegal or illicit items.
- (b) Items which have been illegally imported.
- (c) Items which require or involve an illegal import or export in order to complete the transaction.
- (d) Cash.
- (e) Cash Vouchers.
- (f) Items or services that are prohibited by applicable laws (including but not limited to items that infringe intellectual property laws of any country, in particular the trademark and copyright laws, and/or the intellectual property rights of a Third Party).
- (g) Offensive items (including items of defamatory or ethnically objectionable nature).
- (h) Tickets to events that may contravene scalping laws (or have a face value in cash).
- (i) Stolen items.
- (j) Animals and Wildlife.
- (k) Replica and Counterfeit items.
- (l) Stocks and Securities.
- (m) Any item which in the reasonable opinion of Bartercard International would be offensive, including but not limited to racist and sexist material.

4.9 Online Auction:

- (a) The Online Auction extends by a period of time when bids are placed within the closing minutes of an Auction (refer to the Online Support Centre for more information).
- (b) The "Highest Bidder" at the time of Auction closing, whose bid is at or above the reserve price if applicable (see clause 4.13 (b)) will win the Auction subject to the transaction being able to take place.
- (c) A standard Auction is a listing containing ONE parcel of items to be bid upon.

- (d) If a proxy bid is placed the system will automatically bid up to the requested amount on behalf of the Bidder.
- (e) You agree not to place a bid solely with the intention of increasing the Auction item's price, this includes collaborating with another User or engaging in this conduct through a Related Party.
- (f) You agree not to engage in bid-siphoning by contacting a Bidder in a separate Auction and offering to undercut the Seller in that Auction.
- (g) The Buyer makes a bid, the bid is construed as not a bid of an offer but is a conditional acceptance of an offer to treat which the Seller is deemed to have accepted after the Close of Auction.

4.10 Dutch Auctions:

- (a) When placing a bid on a Dutch Auction the bid is placed as the price PER item.
- (b) A Dutch Auction is a listing containing more than one of the same items. All items contained within a Dutch Auction must be identical. If you are the Seller of a Dutch Auction, you agree to sell the items to the Highest Bidder in such quantities as are specified in the bid. In a Dutch Auction, Bidders bid on the items for either the entire quantity or any amount below this. The bidding will only increase the price of the items by one increment once all items have been bid for at the higher increment price. If all of the items have not been bid for at the higher incremental amount, the items will sell at the price that all items were bid for.

4.11 Transactions:

- (a) eMarketPlace transactions: once the Buyer clicks "Buy Now" the transaction is processed immediately subject to the transaction being able to take place.
- (b) Auction transactions: once the Highest Bidder wins the Auction the transaction is processed immediately subject to the transaction being able to take place.
- (c) All transaction outcomes are advised by email. If the transaction has been processed the email will contain a transaction number.
- (d) No items should be delivered or collected prior to the Seller receiving Notification of the transaction (including the transaction number) via email. Please read your emails carefully to establish a transaction has been processed.
- (e) In the event that you are unable to obtain your emails or a technical issue has resulted in your being unable to receive emails, please check your "Manage Auctions / Manage Listings" area of the website or, alternatively, contact your Bartercard Licensee.

4.12 Delayed Transactions:

- (a) A delayed transaction occurs when the Bartercard Members Trading Portal is unable to process the transaction automatically.
- (b) Both parties, the Seller and Buyer, will receive email Notification stating the transaction has been delayed and an outcome will be advised by Bartercard International in due course. No items should be sent prior to Notification that the transaction has been processed.
- (c) Bartercard International does not accept responsibility for any transactions that are delayed and end up declining.

4.13 Seller's Further Online Trading Obligations:

- (a) You agree to list the items with a starting bid, reserve price (if applicable – see clause 4.13 (b)) or sale price that represents a fair price which equates to the normal selling price or below for that item after having regard to the principle that one unit of the relevant Trade currency equals one unit of the relevant country currency eg: One US Trade Dollar equals One US Dollar.
- (b) No item can be subject to a reserve unless the item falls within a category which Bartercard International has nominated as a category to which reserves can be used. Bartercard International can in its sole and absolute discretion nominate any category as a category to which reserves can be used for items being sold.
- (c) Items listed with starting bids, reserve prices (if applicable – see clause 4.13 (b)) or sale prices deemed to be excessive by Bartercard International may be removed at our discretion. It is accepted that the final selling price for Auctions may be higher than the normal selling price of the items due to the Auction process, but a reserve price (if applicable – see clause 4.13 (b)) cannot be set higher than the normal selling price for this to be forced to occur.
- (d) By listing an item, you are making an irrevocable offer to sell at a starting bid or above your reserve price (see clause 4.13 (b)) on an Online Auction or at your stated price on the eMarketPlace.
- (e) You accept full responsibility for incorrect or inaccurate listings or for inappropriate listing categorisation.
- (f) All motor vehicle listings must be placed within one (1) of the Automotive Categories available.
- (g) If you choose to list adult or mature audience items they must be listed under the Adult Category. Bartercard International reserve the right to censor such items otherwise we will remove them.

- (h) You agree not to sell the item that you have listed on the Online Auction or eMarketPlace in any other way during the time of the listing. Bartercard International will not, whilst there is any bid current, remove a listing from the website where the Seller has sold the item elsewhere or decides not to sell it.
- (i) Accordingly the Seller takes the risk to be liable to the Buyer who has acted in good faith and bid for/purchased the item in circumstances where the Seller has breached these Terms and Conditions by listing and/or selling the item for sale elsewhere.
- (j) You agree not to re-list or sell an item until notified that any delayed transactions have been completed.
- (k) You agree not to place multiple listings for the same item if only one item is available.
- (l) Once the transaction has been made if there is a successful Bidder/Buyer it is your responsibility to immediately communicate directly with the Buyer after the confirmed purchase to arrange collection or delivery in accordance with the Terms of Delivery chosen by you at the time of listing the items for sale.
- (m) The rules setting out the Terms of Delivery are in clause 5 "Rules about Delivery".
- (n) Rules about Delivery also sets out the party's responsibilities for the packing of the items for delivery or collection.
- (o) Bartercard International may delete or refuse to list any or all items at our discretion.
- (p) An Online Auction listing may be edited in full by the Seller (including closing of the listing) prior to bids being placed. Once bids have been placed, the Seller may IN NO WAY edit the listing. However, comments or information may be posted after a bid has been placed but that information or comment does not form part of the listing or the contract nor does it affect the obligation of the Seller to provide the item in accordance with the listing.
- (q) The eMarketPlace listings can be edited in full by the Seller prior to the first sale. eMarketPlace listings may be closed at anytime.
- (r) All items listed must be listed at full Trade and inclusive of all country taxes, including any Value Added Tax, Sales Tax and Items and Services Tax etc, applicable upon the sale of an item within the Seller's jurisdiction. The items listed will not include any additional import/export taxes, levies, duties or other shipping taxes directly applicable due to the Buyer being located in a different jurisdiction to that of the Seller. It is up to the Buyer and Seller to negotiate the payment of these taxes, levies and duties between them.

- (s) Seller Undertaking: the Seller undertakes to be legally bound by the choice you make when setting conditions for the sale. Therefore, you must be careful in your choice before selecting "Post Listing", because a Buyer accepts those conditions you set when you selected "Post Listing". The shipping conditions you set is an irrevocable offer you are making from which you cannot resolve.
- (t) As a Seller you agree that in the event of a dispute (if the Buyer instructs a legal practitioner to act on their behalf in resolving this dispute) the Buyer can Freeze Funds to the amount of the transaction (subject to availability) in the Seller's account for fourteen (14) days to facilitate the commencement of proceedings. The Buyer can Freeze Funds to the amount of the transaction (subject to availability) in the Seller's account on the commencement and during the course of court proceedings provided a resolution is actively being sought.
- (u) If you the Seller fail to provide on request proof of complying with shipping conditions, then the Buyer may reverse the transaction or rely on its rights in the legal system.

4.14 Warranty and Indemnity by You as Seller:

(a) Warranty:

As a Seller you warrant that:

- (i) All items listed will be unencumbered and free from any Third Party claim or interests which may prejudice the ownership rights or interests of the Buyer;
- (ii) Items being offered for sale are accurately described (including any faults, defects etc) in the listing;
- (iii) All relevant and material information concerning the items being offered for sale is contained in the listing;
- (iv) The items are in your possession;
- (v) You have undisputed ownership at the time of placing the listing and may remove an Online Auction listing at any time provided a bid has not been placed and you may remove an eMarketPlace listing at any time;
- (vi) You have not and will not list the same item that you have listed on the website in any other medium whilst your listing is current on the website.

(b) Indemnity:

You as a Seller agree to indemnify Bartercard International against any liability which we may incur to a Third Party whatsoever, howsoever and to whosoever arising out of any breach of your warranties and out of the sale or listing of items or services by you in connection with the Online Auction and/or the eMarketPlace process whether according to contract, tort or legislation.

(c) Seller Acknowledgement and Undertaking:

You acknowledge and undertake:

- (i) To pay the shipping costs if required; and
- (ii) That you as a Seller agree to negotiate and where relevant pay any additional import/export taxes, levies and duties.

4.15 Buyer/Bidders' further Online Trading Obligations:

- (a) Bids/purchases are made by the Bidder clicking "Bid Now" or "Buy Now". You as a Buyer acknowledge that bids and purchases are irrevocable acceptances of the Seller's conditions; therefore a bid/purchase once made is not retractable or able to be cancelled.
- (b) If you are the Highest Bidder and you are notified by email and/or online within the "Manage Auctions" area that your bid has been successful or if you are the successful purchaser of an eMarketPlace listing, it is your responsibility to immediately communicate directly with the Seller after the confirmed purchase to arrange collection or delivery in accordance with the Terms of Delivery.
- (c) You as a buyer acknowledge the Seller lists the items at full Trade inclusive of all country taxes, including any Value Added Tax, Sales Tax and Items and Services Tax etc, applicable upon the sale of an item within the Seller's jurisdiction. The items listed will not include any additional import/export taxes, levies, duties or other shipping taxes directly applicable due to the Buyer being located in a different jurisdiction to that of the Seller. It is up to the Buyer and Seller to negotiate the payment of these taxes, levies and duties between them.
- (d) The rules setting out the Terms of Delivery are in clause 5 "Rules about Delivery".
- (e) If you the Buyer fail to provide upon request proof of complying with shipping conditions, then the Seller may reverse the transaction or rely on its rights in the legal system.

(f) Warranty and Indemnity by You as Buyer:

(i) Warranty:

By making a bid or purchase you warrant and represent that: you have the ability and the legal right to enter into and complete the transaction at the time of the conclusion of the Auction or at the time of purchase on the eMarketPlace and that you will have the capacity to complete the transaction.

(ii) Indemnity:

You as a Buyer agree to indemnify Bartercard International against any liability which we may incur to a Third Party whatsoever, howsoever and to whosoever arising out of any breach of your warranties and out of the sale or listing or purchase of items or services by you in connection with the Online Auction/eMarketPlace process whether according to contract, tort or legislation.

(g) Buyer Acknowledgement and Undertaking:

You acknowledge and undertake:

- (i) To pay the shipping costs if required; and
- (ii) That you as a Buyer agree to negotiate and where relevant pay any additional import/export taxes, levies and duties.



## **5 RULES ABOUT DELIVERY**

### **5.1 Seller's Right:**

The Seller has the right to choose the Terms of Delivery of the items when listing the items for sale.

### **5.2 Delivery Options:**

- (a) Email
- (b) Buyer to Arrange Collection
- (c) Trackable Delivery Service – Seller to Pay
- (d) Trackable Delivery Service – Buyer to Pay

### **5.3 Seller's and Buyer's Obligations under the Delivery Options:**

- (a) Email:
  - (i) Buyer has to advise the Seller within seven (7) days the email address for delivery. Seller to email the item within seven (7) days to address provided. In the event the Buyer has not advised the Seller within seven (7) days, the Seller is to email the item within the following seven (7) days, to the Buyer's email address provided in the Notification email at the date of transaction.
  - (ii) If Seller is providing a site for downloading of items that site must be available for the Buyer to download the items for the next ten (10) days following email Notification of details to Buyer.
  - (iii) The Buyer must ensure it has a valid email address sufficient to receive the items purchased.
  - (iv) Seller must keep proof of sending email for three (3) months.
  - (v) Each party is responsible for their own costs incurred in receiving/sending of the email/downloading of items and any other associated costs of this transaction.
  - (vi) In the event of Seller receiving a non-delivery Notification the Seller is required to make an additional two (2) more attempts at obtaining a successful delivery over the next three (3) days. Seller must keep proof of attempts for three (3) months.

- (vii) If the Seller is unable to provide within ten (10) days of request written proof that they:
  - (i) Emailed the items to the Buyer's email address (refer clause 5.3. (a) (i)); or
  - (ii) In the event of receiving a non-delivery Notification from the email address provided, that the Seller made an additional two (2) more attempts at obtaining a successful delivery over the next three (3) days

and the Buyer has not received the items then Buyer can reverse the transaction or rely on its rights in the legal system.

- (viii) If the Buyer can provide to the Seller proof of inability to download items due to Seller's fault and the Buyer has not received the items then Buyer can reverse the transaction or rely on its rights in the legal system.
- (ix) If the Seller is unable to successfully email the Buyer in accordance with clause 5.3 (a) (vi) or if the Seller can provide proof to the Buyer inability to download items due to Buyer's fault then the Seller may request a reversal or rely on its rights in the legal system.

(b) Buyer to Arrange Collection:

- (i) Seller must notify the Buyer in writing within seven (7) days from date of transaction the place of collection and access times ("Notification").
- (ii) If Buyer is within same country then Buyer must collect the items within ten (10) days from date of Notification or within fourteen (14) days if outside of country ("Collection Period").
- (iii) Seller must make access available for collection for a minimum of four (4) consecutive hours on a minimum of any four (4) days per week during the Collection Period ("Access Times").
- (iv) Buyer has to advise the Seller in writing of collection time at least forty-eight (48) hours prior to collection. This time must be within the Collection Period and the Access Times.
- (v) In all cases the Buyer is to arrange and pay all collection costs.
- (vi) Seller must keep proof of collection for three (3) months.
- (vii) If the Seller is unable to provide within ten (10) days of request written proof of:
  - (i) Advice of place of collection and access details; or
  - (ii) Making access available for collection

and the Buyer has not received the items the Buyer may obtain a reversal of the transaction or rely on its rights in the legal system.

(viii) If the Buyer is unable to provide within ten (10) days of request written proof of:

(i) Advice to Seller of collection time forty-eight (48) hours prior to collection time; or

(ii) Failure to collect within the Collection Period

then Seller may request a reversal or rely on its rights in the legal system.

(c) Trackable Delivery Service – Seller to Pay

(i) Buyer must notify the Seller in writing within seven (7) days from date of transaction the place of delivery and access details (“Notification”).

(ii) The Seller must despatch the item to a Trackable Delivery Service within ten (10) days of Notification if within same country and/or fourteen (14) days if outside of country.

(iii) When arranging a time with the Trackable Delivery Service the Buyer must make access available for delivery for a minimum of four (4) consecutive hours on a minimum of any four (4) days per week until delivered, or comply with the Trackable Delivery Service conditions to facilitate delivery.

(iv) Seller must keep proof of despatch for three (3) months.

If the Seller is unable to provide within ten (10) days of request written proof of Despatch to a Trackable Delivery Service and the Buyer has not received the items the Buyer may seek a reversal of the transaction or rely on its rights in the legal system.

(v) If the Buyer is unable to provide within ten (10) days of request written proof of:

(i) Notification to Seller of delivery and access details; or

(ii) Seller not making access available in accordance with clause 5.2.(c) (iii)

then the Seller may seek a reversal of the transaction or rely on its rights in the legal system.

- (d) Trackable Delivery Service – Buyer to Pay
- (i) The Buyer must choose the Trackable Delivery Service.
  - (ii) Buyer must notify the Seller in writing within seven (7) days from date of transaction the Trackable Delivery Service and the place of delivery and access details (“Notification”).
  - (iii) If either party requires information from the other to complete Trackable Delivery Service payment, that party must provide the information within seven (7) days of written request.
  - (iv) Payment arrangement must be finalised within seven (7) days of Notification or within seven (7) days of receipt of information in the immediately preceding clause 5.2 (d) (iii).
  - (v) Buyer must complete and notify Seller in writing that payment arrangement completed and provide any information that the Seller will need for despatch via the Trackable Delivery Service. If delivery is same country as Seller, then Seller must despatch the items to the Trackable Delivery Service within ten (10) days of Buyer Notification that payment arrangement completed or within fourteen (14) days if Buyer is outside of country.
  - (vi) When arranging a time with the Trackable Delivery Service the Buyer must make access available for delivery for a minimum of four (4) consecutive hours on a minimum of any four (4) days per week until delivered.
  - (vii) Seller must keep proof of despatch for three (3) months.
  - (viii) If the Seller is unable to provide within ten (10) days of request written proof of:
    - (i) Providing requested information needed for despatch; or
    - (ii) Proof of despatch to a Trackable Delivery Serviceand the Buyer has not received the items the Buyer may seek a reversal of the transaction or rely on its rights in the legal system.
  - (ix) If the Buyer is unable to provide within ten (10) days of request written proof of:
    - (i) Notification to Seller of Trackable Delivery Service, delivery and access details;
    - (ii) Proof of providing requested information needed for despatch;
    - (iii) Notification of payment arrangement; or
    - (iv) Seller did not make access available in accordance with clause 5.2.(d) (vii)then the Seller may seek a reversal of the transaction or rely on its rights in the legal system.

**5.4 Packaging:**

It is the Seller's responsibility to package the items in a reasonable manner.

**5.5 Insurance:**

The Buyer assumes responsibility for the items from date of transaction and therefore the Buyer must insure the items in order to protect them from date of the transaction.

**5.6 If Buyer is Outside of the Seller's Shipping Limits:**

If the transaction has completed and the Buyer is outside of the Seller's Shipping Limits and did not reach agreement with Seller under clause 4.6 then the Seller is not obligated to ship, deliver or pay any taxes etc under clause 4.13 (r) nor is it obligated to reverse the transaction. The Buyer should rely on its rights in the legal system.

**5.7 Breach of Obligations:**

If either party breaches their obligations set out in this clause 5, the aggrieved party may make a complaint to Bartercard International within forty-five (45) days from the date of the transaction in accordance with the Dispute Process set out in the clause 6.

## **6 DISPUTE PROCEDURE**

- 6.1 Disputes are lodged online in the Bartercard Members Trading Portal under the Support Tab. If on attempted access to the site your login information is invalid you will be provided with access to an online form which will allow you to register your dispute.
- 6.2 In order for a dispute to be accepted you must have made every effort to resolve the dispute on your own. You acknowledge it is not Bartercard International's responsibility to resolve the dispute, although Bartercard International may exercise its discretion according to the Terms and Conditions.
- 6.3 Dispute Notifications will not be accepted after forty-five (45) days from the Auction Close Date and/or settlement of purchase on eMarketPlace.
- 6.4 Once a Dispute is lodged within this timeframe Bartercard International will forward to the other party the details in order for you to again make contact and attempt to finally resolve the dispute between yourselves.
- 6.5 Users must make every effort to resolve the dispute within forty-eight (48) hours of a dispute being lodged.
- 6.6 The Seller and the Buyer can reverse transactions in accordance with clause 5. The Buyer can reverse transactions in accordance with clause 4.13 (u). All other reversals whether full or partial must be submitted by the Seller.
- 6.7 Should the dispute not be resolved in forty-eight (48) hours from the Notification, Bartercard International reserves the right to investigate and take action accordingly to assist the parties to reach a resolution.
- 6.8 Where disputes cannot be resolved Users are encouraged to seek independent legal advice.
- 6.9 Any advice from Bartercard International given in relation to a dispute is not intended and should not be construed as legal advice and Users are encouraged to seek independent legal advice.
- 6.10 If either the Buyer or the Seller suffer from any loss whatsoever arising directly or indirectly from the transaction as a result of misleading or deceptive conduct by either party or any other breach of the Trade Practices Act then this shall be a matter between the Seller and the Buyer and under no circumstances will Bartercard International be a party to any dispute or litigation arising therefrom.

6.11 Both the Buyer and the Seller hereby:

Acknowledge that Bartercard International is merely the provider of the website platform/trading service and is not involved in any way in any transactions conducted via this website and accordingly:

- (a) Undertake not to include Bartercard International as a party to any dispute, claim or proceedings; and
- (b) Indemnify Bartercard International against any loss or damage arising out of a dispute in relation to any transaction conducted via this website.

## **7 STATEMENTS ONLINE**

- 7.1 Statements Online is a facility to allow certain Users access to view their current and historical Bartercard statements on the Members Trading Portal.
- 7.2 Bartercard International is not liable for any loss, damage or consequential loss or damage if you use or attempt to access Statements Online without using suitable software.
- 7.3 Bartercard International can suspend your access to Statements Online or any function or service incorporated in the Bartercard Members Trading Portal at any time. Our discretion will not be exercised frivolously.
- 7.4 Information provided by Statements Online is supplied by your Bartercard Licensee. If you have any issues concerning the details, please contact them.
- 7.5 You as the User will hold harmless and indemnify Bartercard International against any loss suffered by you arising from any assumptions that the details on the Statements Online are correct.
- 7.6 You acknowledge and agree that:
- (a) Statements Online may not be accurate at the time of a transaction, as the information is provided by your Bartercard Licensee and therefore Bartercard International accepts no responsibility; and
  - (b) Bartercard International have the right to suspend or deny you access to this website, the Bartercard Members Trading Portal, without providing notice and reasons for the decision. Should this discretion be exercised you will not be able to obtain Statements Online; and
  - (c) You will hold harmless and indemnify Bartercard International against any loss you may suffer as a result of being denied access to this website, the Bartercard Members Trading Portal.



## **8 SMSPOS FACILITY**

- 8.1 These conditions only apply to Bartercard Transactions conducted by Short Messaging System on a mobile telephone and your use of it, hereafter known as SMSPOS.
- 8.2 SMSPOS Facility is a facility provided by a Third Party that uses the Bartercard International software program to provide a SMSPOS Service.
- 8.3 You as a Bartercard Member will enter into an Agreement with your Bartercard Licensee, setting out the terms and conditions of your use of the SMSPOS Facility.
- 8.4 Your Bartercard Licensee will administer the use of the SMSPOS Facility.
- 8.5 You acknowledge and agree:
- (a) That under no circumstances will Bartercard International be liable for any loss, claim, expense, action, liability or damage caused directly or indirectly howsoever with use of the SMSPOS Facility and SMSPOS Service and by any unavailability or improper functioning of the SMSPOS Facility or the SMSPOS Service and for whatsoever reason the Bartercard Licensee's right to use the Facility or any Third Party agreement has been terminated.
  - (b) To indemnify and compensate Bartercard International for any damages, claim, action, loss, expense or liability incurred by Bartercard International as a result of any breach by you of this Agreement or as a result of you being denied access to this website, the Bartercard Members Trading Portal.
  - (c) That Bartercard International will not be liable for any Telco or carrier of messages. Users may wish to check sales have been processed by contacting their Bartercard Licensee.
  - (d) That as the facilitator of the SMSPOS Facility as a delivery service to the Bartercard Licensees, Bartercard International does not accept any liability whatsoever for the use of the product or the business processes adopted regionally in a Bartercard License.
- 8.6 Transactions processed through SMSPOS are processed in part through an independent Third Party service provider to the Bartercard Licensee. Bartercard International accepts no responsibility for the delivery of service by independent Third Party service providers, to the extent permitted by law.

- 8.7 Subject to any responsibilities implied by law and which cannot be excluded, Bartercard International is not liable to you for any losses, damages, liabilities, claims and expenses (including but not limited to legal costs and defence or settlement costs) whatsoever arising out of or referable to material on this website, the Bartercard Members Trading Portal or to Third Party material, whether in contract, tort including negligence, statute or otherwise.

## **9 BARTERCARD TRANSACTIONS ONLINE**

- 9.1 Users can transact with other Bartercard Members Trade using the Bartercard Transactions Online facility. When a transaction is approved and processed a transaction number will be issued.
- 9.2 Trade transactions made through the “Bartercard Transactions Online” are distributed to Bartercard Licensees for processing. Bartercard International accepts no responsibility for the delivery of service.
- 9.3 You as a Bartercard Member will enter into an Agreement with your Bartercard Licensee, setting out the terms and conditions of your use of the Online Facility.
- 9.4 Bartercard International accepts no responsibility for errors of any kind. If errors are found, contact your Bartercard Licensee.
- 9.5 It is your responsibility to ensure that all details are correct (including account number and amount) when completing a Bartercard Transaction Online. We take no responsibility for payments made to incorrect Bartercard accounts.
- 9.6 Subject to any responsibilities implied by law and which cannot be excluded, Bartercard International is not liable to you for any losses, damages, liabilities, claims and expenses (including but not limited to legal costs and defence or settlement costs) whatsoever arising out of or referable to material on this website, the Bartercard Members Trading Portal, whether in contract, tort including negligence, statute or otherwise.

## **10 CREDIT CARD PAYMENTS**

- 10.1 Payments made through the “Pay My Fees” are processed through an independent Third Party service provider to Bartercard Licensees. Bartercard International accepts no responsibility for the delivery of service by independent Third Party service providers to the extent permitted by law.
- 10.2 Bartercard International accepts no liability in respect of such Third Party services and Bartercard International provides no warranty and gives no endorsement in respect of such services or any party connected with them.
- 10.3 Bartercard International accepts no responsibility for errors. If errors are found, contact your Bartercard Licensee.
- 10.4 Bartercard International is not responsible for errors made by you when authorising any deduction against your Credit Card. If an error is made, contact your Bartercard Licensee.
- 10.5 It is your responsibility to check your statement to ensure that the amount being displayed as Cash Fees Due and Payable and the amount being authorised for payment are in accordance with the amount being paid.
- 10.6 It is your responsibility to ensure that the details are correct when completing a Credit Card payment. We take no responsibility for payments made to incorrect Bartercard accounts.
- 10.7 Subject to any responsibilities implied by law and which cannot be excluded, Bartercard International is not liable to you for any losses, damages, liabilities, claims and expenses (including but not limited to legal costs and defence or settlement costs) whatsoever arising out of or referable to material on this website, the Bartercard Members Trading Portal or to Third Party material, whether in contract, tort including negligence, statute or otherwise.
- 10.8 Bartercard International will keep any Credit Card payment information (including your Credit Card details) confidential. Bartercard International will make reasonable efforts to keep any such information about you secure and that any of our employees, agents and in this case, service providers, who have access to information about you do not make unauthorised use, modification, reproduction or disclosure of that information. Bartercard International will only disclose this information to the extent specifically required by law.

## **11 SPECIFIC WARNINGS & DISCLAIMERS**

### 11.1 Specific Warnings:

- (a) You acknowledge that Bartercard International as the provider of this website, the Bartercard Members Trading Portal, may elect to transfer and/or subcontract the management rights or any part or all of the provision of the Website Service to a Third Party, without notice being sent to Users.
- (b) Bartercard International are not obliged to notify you of cancellation of your access to this website. If Bartercard International do notify you we are not obliged to state any reason for your cancellation.
- (c) Bartercard International retains all of its discretions to reverse or otherwise uphold transactions as it has under the Terms and Conditions.
- (d) If Bartercard International reverse a transaction as a result of your default under these Terms and Conditions or in exercise of our general discretion then Bartercard International may also require that you pay for the delivery of the items back to you or the other party (as applicable).
- (e) You acknowledge that a failure to comply with these Terms and Conditions entitles us to suspend and/or terminate your Registered User status without notice to you.

### 11.2 Security of Information:

Unfortunately, no data transmission over the Internet can be guaranteed as totally secure. Whilst Bartercard International strive to protect such information, we do not warrant and cannot ensure the security of any information which you transmit to us. Accordingly, any information which you transmit to Bartercard International is transmitted at your own risk. Nevertheless, once Bartercard International receive your transmission, we will take reasonable steps to preserve the security of such information.

11.3 Disclaimers:

- (a) You acknowledge that the information contained within this website in respect of items offered for sale is provided by parties other than Bartercard International and that Bartercard International does not accept any responsibility for misleading or deceptive information or any omissions or errors in the information provided.
- (b) Bartercard International do not accept responsibility for any loss or damages, however caused (including through negligence), which you may directly or indirectly suffer in connection with your use of this website, the Bartercard Members Trading Portal, or any linked website or any transaction that occurs as a result of the use of the website, nor do we accept any responsibility for any such loss arising out of your use of or reliance on information contained on or accessed through this website. We offer no warranties in relation to items sold or listed. We also offer no warranty in relation to the availability of the Website Services.
- (c) You acknowledge that Bartercard International make no representation as to the ownership of title in advertised items or as to the ability of either a Buyer or Seller to complete a transaction.
- (d) To the extent permitted by law, any condition or warranty which would otherwise be implied into these Terms and Conditions is hereby excluded. Where legislation implies any condition or warranty, and that legislation prohibits us from excluding or modifying the application of, or our liability under, any such condition or warranty, that condition or warranty will be deemed included but our liability will be limited for a breach of that condition or warranty to one or more of the following:
  - (i) If the breach relates to items:
    - (i) The replacement of the items or the supply of equivalent items;
    - (ii) The repair of such items;
    - (iii) The payment of the cost of replacing the items or of acquiring equivalent items; or
    - (iv) The payment of the cost of having the items repaired.

- (e) Bartercard International is not an auctioneer. Although we do refer to the Online Auction provided within this website, it is important to realise that we are not a traditional “auctioneer”, we use the term Auction simply to describe the process. Instead we provide a venue to allow Users to offer, buy and sell a variety of items in a variety of formats, including the Online Auction bidding process, eMarketPlace listings, and Directories of Bartercard Members. We are not involved in the actual transaction between the Buyer and Seller. Bartercard International simply provides the venue and the tools to allow for transaction processing and/or assisting trading to occur.
- (f) You must ensure that your access to this website is not illegal or prohibited by laws which may apply to you, including using another’s Username or Password without permission.
- (g) You must take your own precautions to ensure that the process which you employ for accessing this website does not expose you to risk of viruses or other form of interference which may damage your own computer system. For the removal of doubt, we do not accept responsibility for any interference or damage to your own computer system which arises in connection with your accessing of this website, the Bartercard Members Trading Portal, or any linked website.
- (h) Whilst we have no reason to believe that any information contained on this website is inaccurate, we do not warrant the accuracy, adequacy or completeness of such information, nor do we undertake to keep this website updated. We do not accept responsibility for loss suffered as a result of reliance by you upon the accuracy or currency of information contained on this website.
- (i) Responsibility for the content of advertisements appearing on this website (including hyperlinks to advertisers’ own websites) rests solely with the advertisers. The placement of such advertisements does not constitute a recommendation or endorsement by Bartercard International of the advertisers’ items and each advertiser is solely responsible for any representations made in connection with its advertisement, nor does Bartercard International guarantee the items being displayed on the Bartercard Member’s personal website are on Trade.
- (j) You acknowledge that we do not represent any party to a transaction, nor are we an agent for the Seller or the Buyer. Unless expressly stated to the contrary, we do not endorse or have an interest in the items which are being sold and we do not accept responsibility for defective items, including the failure of items to be of saleable quality. We have no control over the availability, quality, safety or legality of advertised items, we do not warrant the truth or accuracy of listings and we have no control over representations made by any party. Buyers buy and Sellers sell at their own risk.

- (k) Bartercard International are not responsible for any loss whatsoever that a User may suffer including but not limited to economic loss in the event a transaction is not processed due to any case whatsoever, including but not limited to, technical difficulties affecting our system or a scheduled outage.
- (l) Bartercard International are not responsible for any loss whatsoever a User may suffer including, but not limited to, economic loss, for reliance on Support Centre content, guidelines or comments from Bartercard International officers, employees, agents or contractors.

#### 11.4 Exemption to Disclaimer:

The Disclaimer set out in these Terms and Conditions does not attempt or purport to exclude liability arising under statute, if, and to the extent, such liability cannot be lawfully excluded.

#### 11.5 Liability and Indemnity:

- (a) You agree that Bartercard International will be under no liability to you in respect of any loss or damage (including indirect, special or consequential loss or damage) which may be suffered or incurred by you or which may arise directly or indirectly in respect of items or services supplied pursuant to the Website Services or in respect of a failure or omission on the part of the other party to a transaction.
- (b) You release and indemnify Bartercard International and shall keep us indemnified:
  - (i) Against all actions, claims and demands (including the cost of defending or settling any action, claim or demand) which may be instituted against Bartercard International arising out of a failure by us to comply with these Terms and Conditions or a failure by the other party to a transaction to complete a sale or satisfy the requirements of a sale;
  - (ii) Against all actions, claims and demands (including the costs of defending or settling any action, claim or demand) which may be instituted against Bartercard International arising out of any act or omission on your part, including but not limited to a failure by you to comply with your obligations under these Terms and Conditions.



11.6 Linked Websites:

- (a) This website, the Bartercard Members Trading Portal may contain links to other websites ("Linked Websites"). Those links are provided for convenience only and may not remain current or be maintained.
- (b) Bartercard International are not responsible for the content or privacy practices associated with Linked Websites.
- (c) Bartercard International links with Linked Websites should not be constructed as an endorsement, approval or recommendation by us of the owners or operators of those Linked Websites, or of any information, graphics, materials, items or services referred to or contained on those Linked Websites, unless and to the extent stipulated to the contrary.

## 12 **PRIVACY POLICY**

### 12.1 General Terms of our Privacy Policy:

- (a) Bartercard International undertake to comply with the Terms of our Privacy Policy which is described in this section as follows.
- (b) Bartercard International understands how important your Personal Information is to you. We have adopted the National Privacy Principles contained in the Privacy Act (Commonwealth) 1988 as part of our standard operating procedures for the protection of your Personal Information.
- (c) This Policy explains how Bartercard International collects Personal Information and how we maintain, use and disclose that information.
- (d) Personal Information means information or an opinion about you from which your identity is apparent or can reasonably be ascertained. This is whether the information or opinion is true or not and whether it is recorded in material format or not.
- (e) Bartercard International will only collect Personal Information from you that is necessary for us to be able to provide our services to you. Bartercard International will seek to ensure that we do not collect information from you in any way that is unlawful or unreasonably intrusive. Whenever it is reasonable and practicable to do so, we will collect that information directly from you. If Bartercard International have to collect Personal Information about you from someone else, we will take reasonable steps to ensure that you are aware of that fact.
- (f) Bartercard International does not collect information about your political, philosophical, or religious beliefs or sexual preferences.
- (g) If you do not provide Bartercard International with the Personal Information Bartercard International request, we may not be able to provide you with our services.
- (h) Use of your Personal Information will be used:
  - (i) To provide our services;
  - (ii) To enhance our Buyer service;
  - (iii) To answer your queries;
  - (iv) For internal research;
  - (v) To facilitate Trade transactions;
  - (vi) To aid transaction completion.
- (i) Bartercard International will not use your Personal Information for purposes unrelated to our services.

- (j) Bartercard International will not sell or trade your Personal Information.
- (k) Bartercard International may use your Personal Information for direct marketing purposes to advise you of special offers, items which may be of interest to you and exclusive opportunities relating to our services. If at any time you do not wish to receive our marketing communications, then please tell us. You can do this by selecting the “opt-out” or “Unsubscribe” option in the marketing communication or via email to [privacy@bartercard.com](mailto:privacy@bartercard.com) or by contacting us at the following address:

The Privacy Officer  
Bartercard.com  
PO Box 582  
SOUTHPORT BC QLD 4215  
AUSTRALIA

#### 12.2 Disclosure of Your Personal Information:

- (a) Bartercard International will only disclose information about you if required or permitted by law, if we have your consent, if such disclosure is for a purpose contemplated by these Terms or Conditions or to detect and prevent fraud or other criminal activities. Your Personal Information may be disclosed to other related companies or to third parties required to assist Bartercard International in providing services to you, including Bartercard Licensees, Bartercard Franchisees and other Bartercard Group Companies.
- (b) Only so much of your information as is required to enable these organisations to provide their services is disclosed. These organisations are bound by confidentiality and non-disclosure agreements and the information at all times remains the property of Bartercard International.
- (c) Your Personal Information may be disclosed to other Users and Bartercard Members to facilitate and encourage Trade transactions or to assist the process of collection and/or delivery of items.

#### 12.3 Accuracy of Personal Information:

- (a) Bartercard International try to ensure that the Personal Information held by us about you is accurate, complete and up-to-date. To assist Bartercard International, we ask that you notify us promptly if there are any changes to your Personal Information. You may ask Bartercard International to correct any inaccurate information we hold about you and we will address your concerns within a reasonable period.

12.4 Tracking of Emails:

- (a) The Bartercard Members Trading Portal contains tools that can be used to contact other Users. For the purposes of Quality Assurance, these communications are tracked and archived. You acknowledge that this information may be used by Bartercard International to ensure these Terms and Conditions are followed and adhered to.

12.5 Data Security:

- (a) Bartercard International will take reasonable steps to protect your Personal Information from misuse and loss, and from unauthorised access, modification or disclosure. For example, Personal Information stored electronically requires login and Passwords for access, and is only utilised by staff whose job requires access.
- (b) Your Personal Information, where not stored electronically, is stored in our secure office premises with restricted access or with an offsite secure storage facility. If Bartercard International no longer require the use of your Personal Information, we will take reasonable steps to destroy or permanently de-identify it.

12.6 Access to Personal Information:

- (a) Bartercard International will provide you with access to your Personal Information upon request. We will endeavour to provide the information to you in a timely manner. You may be charged a fee for servicing your request which Bartercard International will advise you at the time. There is no fee for lodging a request for access.
- (b) There may be circumstances in which Bartercard International cannot provide you with access; for example, where this is required or authorised under the law, would have an unreasonable impact upon the privacy of other individuals or the request for access is frivolous or vexatious. We will advise you of the reasons if we deny you access.

12.7 Cookies:

- (a) In order to provide better Buyer service and to enhance our relationship with our Users, Bartercard International collects statistical information on website activity such as the number of Users who visit Bartercard's website, the date and time of visits, the number of pages viewed, time spent on website, navigation patterns and origin of the User. In common with most websites, we use "cookies". A cookie allows us to identify and more effectively interact with your computer. A cookie does not identify the individual User although they do identify that computer's use of the site, the computer's browser type and Internet service provider. You may be able to configure your browser so that it does not receive cookies but in doing so some of the functionality of Bartercard's website may be lost.

12.8 Consent:

- (a) By remaining a Bartercard Member you consent to Bartercard International, its agents, contractors, authorised employees and any related party collecting, maintaining, using and disclosing your Personal Information in accordance with Bartercard International's Privacy Policy for the purposes contemplated by these Terms and Conditions.
- (b) You also hereby authorise Bartercard International, its agents, contractors, authorised employees and any related party to send to you commercial and non-commercial electronic messages for the purposes set out in this section and/or as contemplated by these Terms and Conditions.

12.9 Complaints Resolution:

- (a) Bartercard International will try to answer any question and address any complaint you have about the information we hold about you, or about our information-handling practices. You may contact us at [privacy@bartercard.com](mailto:privacy@bartercard.com) or the following address:

The Privacy Officer  
Bartercard.com  
PO Box 582  
SOUTHPORT BC QLD 4215  
AUSTRALIA

If Bartercard International are unable to resolve your request, you may refer the complaint to your relevant Privacy Commissioner in your country.

## 13 INTELLECTUAL PROPERTY

### 13.1 Copyright:

- (a) Copyright in this website (including text, graphics, logos, icons, sound recordings and software) is owned or licensed by Bartercard International. Other than for the purposes of, and subject to the conditions prescribed under, the Copyright Act 1968 (Commonwealth) and similar legislation which applies in your location, and except as expressly authorised by these Terms and Conditions, you may not in any form or by any means:
  - (i) Adapt, reproduce, reverse engineer, store, distribute, print, perform, publish or create derivative works from any part of this website; or
  - (ii) Commercialise any information, products or services obtained from any part of this website; without our written permission.

### 13.2 Trademarks:

- (a) Except where otherwise specified, any word or device to which is attached the <sup>TM</sup> symbol or ® symbol is a trademark lodged for registration or a registered trademark.
- (b) If you use any of Bartercard International's trademarks in reference to our activities, products or services, it is your responsibility to include a statement attributing that trademark to us. It is your responsibility not to use any of Bartercard International's trademarks:
  - (i) In or as the whole of part of your own trademarks;
  - (ii) In connection with activities, products or services which are not Bartercard International's;
  - (iii) In a manner which may be confusing, misleading or deceptive; or
  - (iv) In a manner that disparages Bartercard International or our information, products or services (including this website).

### 13.3 Restricted Use:

- (a) Unless Bartercard International agree otherwise in writing, you are provided with access to this website only for your personal use as a Bartercard Member. You are authorised to print a copy of any information contained on this website for your personal use, unless such printing is expressly prohibited. Without limiting the foregoing, you may not on-sell information obtained from this website.

## 14 **GENERAL PROVISIONS & TERMINOLOGY**

### 14.1 General:

- (a) Bartercard International accept no liability for any failure to comply with these Terms and Conditions where such failure is due to circumstances beyond our reasonable control.
- (b) If Bartercard International waive any rights available to us under these Terms and Conditions on one occasion, this does not mean that those rights will automatically be waived on any other occasion.
- (c) If any of these Terms and Conditions is held to be invalid, unenforceable or illegal for any reason, then to the extent of such unenforceability, invalidity or illegality it is to be severed from this Agreement and the remaining Terms and Conditions shall nevertheless continue in full force.
- (d) If any Terms and Conditions of this Agreement and any Policies published on this website or the website in use becomes invalid or unenforceable for any reason, then that invalidity or unenforceability will not affect the validity or enforceability of any of the other separate and independent clauses, covenants and restraints in the aforementioned Agreements.
- (e) You agree that you will only use the website and the information derived from the website solely for the legitimate purposes contemplated by these Terms and Conditions and in accordance with these Terms and Conditions.
- (f) In addition to these Terms and Conditions, you agree to comply with any Policies, rulings, procedures, systems and/or forms that Bartercard International place on this website.
- (g) You agree to act honestly and reasonably in all of your dealings in relation to or on the website.

14.2 Termination of Access:

- (a) Access to this website may be terminated at any time by Bartercard International without notice. Our section – “Specific Warnings & Disclaimers” will survive any such termination.
- (b) Bartercard International will be entitled to terminate this Agreement, without notice to you if:
  - (i) You breach any provision of this Agreement;
  - (ii) Your continued access to any part of this website and/or any service or facility offered by the Bartercard Members Trading Portal poses a threat to the security, integrity or operation of any of these facilities and/or services or to Bartercard and its Group of Companies including Bartercard Licensees;
  - (iii) Your Bartercard Membership under your Bartercard Licensee has been terminated or your Bartercard account closed.

14.3 Governing Law:

- (a) These Terms and Conditions are governed by the laws in force in Queensland, Australia due to the hosted location and venue.

14.4 Terminology:

- (a) In these Terms and Conditions, the following expressions have the following meanings, unless the context otherwise requires:



- (i) “Bartercard International” means Bartercard International Limited EC 27608 and its officers, employees, agents and authorised entities (including Bartercard International Pty Ltd and its officers, employees and agents of any controlled subsidiary);
- (ii) “Bartercard Licensee” means the entity that operates the Bartercard System within a particular jurisdiction;
- (iii) “Closed Auction” refers to an “Auction” that has closed and either a Transaction (sale/purchase) has been Processed or the Auction has “Declined”. A “Closed Auction” does not necessarily refer to the ending/closing time indicated on the advertisement. In the event of a “Closed Auction”, both Buyer and Seller will be notified by the despatch of an email Notification;
- (iv) An “Outstanding” transaction, one where the transaction is being reviewed, is not deemed to be “Closed”;
- (v) “Member” means a business or individual that has subscribed for Membership to the Bartercard Trading Program and wants to exchange its items and/or services with other Members within the Bartercard Trading Program. This is irrespective of the country of origin;
- (vi) “Members Trading Portal” means an online application that provides facilities for Bartercard Members. The Bartercard Members Trading Portal enables distribution of information, transactions to be undertaken and details to be managed;
- (vii) “Policies” means Policies published within the Active Policies section of the Support Centre Knowledge Base as updated from time to time. These Policies form part of these Terms and Conditions;
- (viii) “User”, “Users”, “Registered User” and “Registered Users” means a Member of the Bartercard Trading Program, irrespective of their country of origin, who is in Good Standing and who has completed the registration process provided within this or other Bartercard websites;
- (ix) “Related Parties” means any related parties and/or related accounts to you (whether by ownership, influence or control, whether directly or indirectly, whether in the same region or in other regions globally) and any persons using cards issued under or in relation to those accounts (including staff accounts);
- (x) “SMSPOS Facility” means the facility provided by the Bartercard Licensees to enable the SMSPOS software to operate within the Bartercard System for each relevant Bartercard Licensee, Bartercard system and network within their licensed territory;

- (xi) "SMSPOS Service" means the facility that uses Short Messaging System on your mobile phone and allows you to perform certain Bartercard Member transactions. Such services may include the facilitation of trades, retrieval of account balances and/or other services as notified from time to time;
- (xii) "Trading Program" means the Bartercard Trading Program that enables Members to trade with each other using the Bartercard System;
- (xiii) "We", "us", "our" and "Bartercard International" means Bartercard International Limited EC 27608 and its officers, employees, agents, contractors and authorised entities including their officers, employees and agents;
- (xiv) "Website Services" means any and all services provided electronically by Bartercard International;
- (xv) "Freeze Funds" means access to the Trade funds is blocked.