

RULES OF THE TRADING PROGRAM DECEMBER 2014

**BARTERCARD EXCHANGE LTD
ACN 071 604 012
("Exchange Company")**



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PART I - PRELIMINARY

1. THE TRADING PROGRAM AND THE PARTIES INVOLVED

- 1.1 Trading Program.** The “Trading Program” is a system to facilitate reciprocal Trade amongst its Members.
- 1.2 Exchange Company.** The “Exchange Company”, (Bartercard Exchange Ltd ACN 071 604 012) is the company which operates the Trading Program. The Exchange Company acts as a third-party record keeper of Trade transactions amongst Members, and directs Members to each other for the purpose of facilitating Trade transactions.
- 1.3 Manager.** The “Manager” (Bartercard Operations Aus Pty Ltd ACN 168 816 135) has been appointed under a Deed of Management to manage the Exchange Company and the Trading Program in accordance with the provisions of that Deed.
- 1.4 Member.** A “Member” of the Trading Program is the holder of a redeemable preference share in the Exchange Company in accordance with the Articles of Association of the Exchange Company (the “Articles”) and does not include an Extraordinary Member.
- 1.5 Extraordinary Member.** An “Extraordinary Member” of the Trading Program is the classification given to the Manager when it participates in the Bartercard Trading Program by buying and/or selling products and/or services with other Members.
- 1.6 Associates.** An “Associate” is any entity’s holding companies, subsidiaries, related companies, directors, officers, employees, contractors and agents.

2. THE RULES

- 2.1 Purpose.** The purpose of these rules (the “Rules”) is to regulate the Trading Program by setting out the terms upon which Members may Trade. Subject to the provisions of the Articles, these Rules govern the operation of the Trading Program.
- 2.2 Legally Binding.** The Manager, the Exchange Company and each Member agree to be bound by these Rules, The Rules and the Membership Agreement signed by each Member forms a contract between the Manager and the Exchange Company and all of the Members jointly, between the Manager and the Exchange Company and each of the Members severally, and between each Member and each other Member. If there is a conflict between the terms of the Membership Agreement and the Rules, the provisions of the Rules shall prevail.
- 2.3 Survival of Obligations.** These Rules are binding on the Members Obligations imposed upon Members under these Rules shall survive

the suspension or termination of the right of a Member to participate in the Trading Program.

2.4 Binding on Successors and Permitted Assigns etc. The Rules are binding upon the Members, their heirs, successors and permitted assigns.

2.5 Interpretation. In these Rules, unless the context otherwise requires:

- (a) singular includes plural and vice versa;
- (b) any gender includes every gender;
- (c) a reference to a person includes corporations, trusts, associations, partnerships, a Government Authority, and other legal entities and, where necessary, includes successor bodies;
- (d) references to writing include printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible form, in English;
- (e) references to signature and signing include due execution of a document by a corporation or other relevant entity;
- (f) references to months mean calendar months;
- (g) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (h) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
- (i) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of these Rules;
- (j) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning;
- (k) a reference to an agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;
- (l) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.
- (m) nouns, pronouns, and verbs shall be construed as masculine, feminine, neuter, singular or plural, whichever shall be applicable; and
- (n) whenever the words "include", "includes" or "including" are used, they shall be deemed to be followed by the words "without limitation".

2.6 Terms.

- (a) The terms used in the Rules have the meanings given to them in the Rules, as set out in the Glossary of Terms.
- (b) Terms used in these Rules which are not contained in the Glossary of Terms have the meanings given to them in the Deed of Management.

3. NATURE OF TRADE DOLLARS

- 3.1 Nature.** A “Trade Dollar” is an accounting unit (notionally equivalent to one Australian Dollar) used to record the value of goods and services traded. Trade Dollars are not legal tender, securities, debentures or commodities. In these Rules, one Trade Dollar is the equivalent of one Australian Dollar and vice versa.
- 3.2 Credit Balance an asset of Member.** The Trade Dollars recorded in a Trade Account of a Member which has a credit balance, represents an asset of that Member. Such a Member is entitled to obtain goods or services from another Member to a value equivalent to that credit balance, in accordance with these Rules but not otherwise.
- 3.3 Not a Liability of the Manager or Exchange Company.** The Trade Dollars recorded in a Trade Account of a Member which has a credit balance, do not constitute a liability or a debt payable by the Manager or the Exchange Company to any Member.
- 3.4 Debit Balance a Liability of Member.** A Member whose Trade Account has a debit balance is liable, in accordance with these Rules, either:
 - (a) to supply goods or services to an equivalent value to another Member in accordance with these Rules but not otherwise; or
 - (b) if the Member has not discharged the Member’s liability by supplying goods or services to another Member in accordance with these Rules, to pay to the Exchange Company an amount in cash dollars equivalent to the amount in Trade Dollars of the debit balance in accordance with these Rules.
- 3.5 No Obligation to Redeem or Convert.** Under no circumstances shall the Manager or the Exchange Company be under any obligation to any Member to redeem or convert to cash or pay any amount for or in respect of Trade Dollars. The Manager and the Exchange Company do not warrant the negotiability of Trade Dollars.
- 3.6 Restriction on use.**
 - (a) Trade Dollars may only be used in the manner and for the purpose set forth in these Rules.
 - (b) For the avoidance of doubt, Trade Dollars must not be exchanged between Members for any cash consideration.

PART II - TRADING IN THE PROGRAM

4. ENTITLEMENT TO PARTICIPATE

- 4.1 Member in Good Standing.** Unless the Manager allows otherwise, only a Member which is:
- (a) current in any fees and charges owing to the Exchange Company;
 - (b) is trading within its Credit Limit;
 - (c) is carrying on a business involving the provision of goods and/or services; and
 - (d) otherwise conducts itself in accordance with these Rules (referred to in these Rules as a “Member in Good Standing”) is entitled to participate in the Trading Program.
- 4.2 Additional Cardholders.** The Manager may, at the request of a Member the (“Initiating Member”), issue additional cards to any person nominated by the Initiating Member the (“Additional Cardholder”) to be used subject to these Rules. Upon the issue of the additional card to the Additional Cardholder, the Additional Cardholder will be subject to these Rules as if the Additional Cardholder were a Member. The Initiating Member will be liable for the use of the Additional Cardholder’s card and any of the Additional Cardholder’s acts or omissions, including any breaches of the Rules and any liability created under these Rules, until the Additional Cardholder’s right to use the card is withdrawn in accordance with Rule 4.3. In the event that the Additional Cardholder breaches any obligations or restrictions of a Member that are imposed on the Additional Cardholder under these Rules, the Manager may without notice suspend and/or withdraw the Additional Cardholder’s and/or the Initiating Member’s right to participate in the Trading Program.
- 4.3 Additional Cardholders Right Withdrawn.** A Member must give the Manager written notification of the withdrawal of an Additional Cardholder’s right to use the Member’s Trade Account. Upon such notification the Additional Cardholder’s card must be returned to the Manager. Upon receipt of both the written notification and the Additional Cardholder’s card, the Manager will withdraw the right of the Additional Cardholder to use the Member’s Trade Account. A Member remains liable for all use of an additional card until the additional card is returned to the Manager.
- 4.4 Staff Accounts.** The Manager may, at a Member’s request, issue a Staff Account to any full time employee of a Member for the purpose of paying normal wages and/or bonuses, subject to the completion of the Staff Account application form, and payment of any associated fees and/or charges. The Staff Account Member will immediately be subject to the Rules and any conditions set out in the Staff

Membership Agreement upon opening a Staff Account. The Member will be liable for any fees, charges, debit balance and costs payable from time to time with respect to the Staff Account. In the event that the Staff Account Member breaches any obligations or restrictions of a Member that are imposed under these Rules on a Staff Account Member, the Manager may without notice suspend or terminate the Member's Staff Account and may take such further action set out in Rule 21.4.

5. TRADE TRANSACTIONS

- 5.1 Trade.** A "Trade" is a transaction conducted in the manner set out in these Rules, between Members or between the Manager (as an Extraordinary Member) and any Member, involving the sale and purchase of goods (which expression includes, for the purposes of these Rules, real property or any right or title to or interest in any goods or services), which is recorded by those Members in accordance with these Rules. The party selling the goods or services, referred to in these Rules, is the "Selling Member", and the party purchasing the goods or services is the "Buying Member".
- 5.2 Trade Accounts.** In its books of account, the Exchange Company shall establish for each Member and for the Manager, an account ("Trade Account") for recording Trades entered into by them and other transactions in Trade Dollars which relate to them.
- 5.3 Recording of Trades.** Subject to these Rules, the Manager shall cause any Trade which has been duly entered into to be recorded in the Trade Accounts of the participants in the Trade, by:
- (a) crediting the Trade Account of the Selling Member with the Trade Dollar amount of the Trade (if necessary, offsetting that amount against any debit balance in that Trade Account); and
 - (b) debiting the Trade Account of the Buying Member with the Trade Dollar amount of the Trade (if necessary, offsetting that amount against any credit balance in that Trade Account).
- 5.4 No Agency.** In conducting any Trade, Members do so as principals and not as agents of or through the Manager or the Exchange Company. Neither the Manager nor the Exchange Company is a party to any Trade and Trades shall be entered into voluntarily by the Buying Member and Selling Member. Neither the Manager nor the Exchange Company is the guarantor of any Trade or Trade Dollar or otherwise liable therefore.

6. TRADE PROCEDURE

- 6.1 Trades.** All trades are to be processed electronically or forwarded to the Manager for processing within fourteen (14) days of the Trade

Transaction. Proof of Transaction means a document that includes:

- (a) name of supplier or service provider;
- (b) name of buyer;
- (c) date of the supply;
- (d) goods or services supplied; and
- (e) price of the goods or services.

Examples of a Proof of Transaction include:

- (a) invoice;
- (b) point of sale receipt;
- (c) hand written receipt;
- (d) lay-by agreement, continual supply agreement, automatic deduction agreement, or progressive payment agreement; and
- (e) confirmation or receipt number provided for a telephone or internet transaction using Electronic Processing Services.

The Buying Member and the Selling Member shall maintain Proof of Transactions in which they are a party for 12 months.

Upon request by the Manager, the Selling Member and Buying Member shall each produce such records of the transaction. If the Selling Member or Buying Member fails to produce such records within ten (10) days after a request by the Manager, the Manager shall have the right, which it may exercise in its absolute discretion, to reverse or alter all or part of the relevant transactions.

6.2 Trade by Electronic Processing Services. means a facility that uses telephone, mobile devices, EFTPOS terminals and/or internet communication systems including the Members Trading Portal that allow Members to perform transactions. Electronic Processing Services may include the facilitation of trades, retrieval of account balances and other services as notified from time to time by the Manager.

(a) In connection with any transaction involving the Electronic Processing Services, where the transaction is initiated by the Selling Member, the following Electronic Processing Services procedures must be utilised:

- Step 1 the Selling Member must obtain the name of the Buying Member and its card number;
- Step 2 the Selling Member must obtain an authorisation number from the Manager (irrespective of the Trade amount);
- Step 3 where the Buying Member and the Selling Member are present together at the point of sale, and the Buying Member's signature is required to complete the transaction, the Selling Member must obtain and verify

that the Buying Member's signature conforms to the signature on the card and the card has not expired.

- (b) In connection with any transaction involving the Electronic Processing Services, where the transaction is initiated by the Buying Member, the following Electronic Processing Services Procedures must be utilised:

Step 1 the Buying Member must obtain from the Selling Member its account number and name;

Step 2 the Buying Member must obtain an authorisation number from the Manager (irrespective of the Trade amount).

6.3 Trade By Transaction Voucher. The procedure for conducting a Trade by a Transaction Voucher is:

- (a) **(Produce card)** A Member in Good Standing who intends to purchase goods or services (the "Buying Member") shall produce prior to receiving the goods or services its Member's Card to the Member who intends to sell the goods or services (the "Selling Member");
- (b) **(Complete Transaction Voucher)** Either the Buying Member or the Selling Member completes the following particulars of the proposed Trade upon a form prescribed from time to time by the Manager as the form to be completed for the purposes of a Transaction Voucher Trade ("Transaction Voucher"):
- (i) the name of the Buying Member and its card number;
 - (ii) the name of the Selling Member and its account number;
 - (iii) a brief description of the goods or services;
 - (iv) the date upon which the Trade is entered into; and
 - (v) the Trade Dollar amount of the Trade.
- (c) **(Sign Transaction Voucher)** The Buying Member signs the Transaction Voucher and the Selling Member shall check that the signature on the Transaction Voucher conforms with the signature on the card and the card has not expired;
- (d) **(Obtain authorisation)** The Selling Member, where required under these Rules, obtains authorisation from the Manager for the proposed Trade;
- (e) **(Endorse authorisation)** The Selling Member endorses the Transaction Voucher with the authorisation number issued by the Manager (if one is issued), gives the duplicate to the Buying Member and retains the triplicate copy;
- (f) **(Send Transaction Voucher)** The Selling Member sends the original completed Transaction Voucher to the Manager within fourteen (14) days to be recorded.

6.4 Trade by Prepaid Scrip Certificate.

- (a) **Prepaid Scrip Certificates.** “Prepaid Scrip Certificates” are prepaid certificates obtained through the Manager or its Franchisees which enable the bearer to receive goods and services from a named merchant to the value of the Prepaid Scrip Certificates without an Authorisation Number;
- (b) **Prepaid Scrip Certificates obtained from Selling Member.** From time to time, the Manager and/or Franchisees may obtain from a Selling Member Prepaid Scrip Certificates in which case it shall:
- (i) credit the Trade Account of that Selling Member with the relevant Trade Dollar amount of the Trade;
 - (ii) debit the Manger or Franchisees Trade Account with the relevant Trade Dollar amount of the Trade.
- (c) **Issue of Product Vouchers.** At the request of any Member, the Manager and/or Franchisees may issue to that Member Prepaid Scrip Certificate/s entitling the bearer to receive goods and services to the value of the Prepaid Scrip Certificate in which case it shall:
- (i) debit the Trade Account of that Buying Member with the relevant Trade Dollar amount of the trade;
 - (ii) credit the Manger’s or the Franchisee’s Trade Account with the relevant Trade Dollar amount of the Trade.
- (d) **Selling Member’s Obligation.** A Selling Member must trade with the bearer of a Prepaid Scrip Certificate by supplying goods and services to the value of the Prepaid Scrip Certificate. There is no need for the Selling Member to forward the redeemed Prepaid Scrip Certificate to the Manager after the Trade has been completed.
- (e) **Payment of Balance in Cash.** The bearer of a Prepaid Scrip Certificate may, if the Trade Dollar amount of the Prepaid Scrip Certificate is insufficient to meet the purchase price of the goods or services to be sold or provided by the Selling Member, pay the balance of the purchase price to the Selling Member in cash rather than in Trade Dollars. No Change Payable. Where the Trade Dollar amount of the Prepaid Scrip Certificate exceeds the purchase price of the goods or services to be sold or provided, the Selling Member is not obliged to pay any change or give any credit in favour of the bearer of the Prepaid Scrip Certificate.
- (f) **Supplementary or Amended Rules.** The Manager may, from time to time, issue supplementary or amended rules for the use of Prepaid Scrip Certificates, which shall be endorsed thereon, and Members using Prepaid Scrip Certificates shall be bound thereby.
- (g) **No express or implied warranty of merchantability or fitness**

for a particular purpose. In respect of goods or services provided pursuant to the production of a Prepaid Scrip Certificate, the Manager or the Franchisee make no express or implied warranty including as to the merchantability or fitness for a particular purpose of any such goods or services provided by the Selling Member. For the purposes of such Trade the Member receiving the Prepaid Scrip Certificate shall be deemed to be the Selling Member.

6.5 Trade by Gift Card.

- (a) **Gift Cards.** “Gift Cards” are Cards preloaded with a Trade Dollar amount, which entitles the authorised bearer to participate in the Trading Program.
- (b) **Issue of Gift Cards.** At the request of any Member, the Manager may issue to a non-member a Gift Card in which case it shall:
 - (i) debit the Trade Account of the requesting Member with the relevant Trade Dollar amount;
 - (ii) credit the Gift Card being issued with the relevant Trade Dollar amount. The issue and the amount of Gift Cards shall be at the sole discretion of the Manager.
- (c) **Gift Card Use.** When a Gift Card is presented to a Selling Member for the purchase of goods or services, the Selling Member must follow the trade procedure as set out in section 6.1.
- (d) **No express or implied warranty of merchantability or fitness for a particular purpose.** In respect of goods or services provided pursuant to the production of a Gift Card, the Manager makes no express or implied warranty including as to the merchantability or fitness for a particular purpose of any such goods and services provided by the Selling Member. For the purposes of such Trade the Member to whom the gift card is produced shall be deemed to be the Selling Member.
- (e) **Expiry date.** Gift cards will expire twelve (12) months from date of issue.
- (f) **Supplementary or Amended Rules.** The Manager may, from time to time, issue supplementary or amended rules for the use of Gift Cards, which shall be endorsed thereon, and Members using or accepting Gift Cards shall be bound thereby.

6.6 Trade by Gift Certificate. The procedure for conducting a Trade by way of “Gift Certificate” is:

- (a) **(Issue of Gift Certificate)** A Member may issue a Gift Certificate entitling the bearer to participate in the Trading Program; The issuer partially completes the Gift Certificate by:
 - (i) *inserting its name and card number (Buying Member);*
 - (ii) *the expiry date of the gift Certificate; and*

- (iii) *the Trade Dollar amount of the Trade;*
- (b) **(Produce Gift Certificate)** The bearer who intends to purchase goods or services shall produce prior to receiving the goods or services the Gift Certificate to the Selling Member;
- (c) **(Selling Member's obligation)** A Selling Member must trade with the bearer of a Gift Certificate as if the bearer were a Buying Member;
- (d) **(Complete Gift Certificate)** The Selling Member completes the following particulars of the proposed Trade upon a form prescribed from time to time by the Manager as the form to be completed for the purposes of an Transaction Voucher Trade ("Transaction Voucher"):
 - (i) *the bearer's identification and details as requested on Gift Certificate;*
 - (ii) *the name of the Selling Member and its account number;*
- (e) **(Sign Gift Certificate)** The bearer signs the Gift Certificate and the Selling Member shall check that the signature on the Gift Certificate conforms with the identification provided;
- (f) **(Obtain authorisation)** The Selling Member, obtains authorisation from the Manger for the proposed Trade;
- (g) **(Endorse authorisation)** The Selling Member endorses the Gift Certificate with the authorisation number issued by the Manager (if one is issued);
- (h) **(Send Gift Certificate)** The Selling Member sends the original completed Gift Certificate to the Manager within fourteen (14) days to be recorded;
- (i) **(Payment of balance in cash)** The bearer of a Gift Certificate may, if the Trade Dollar amount of the Gift Certificate is insufficient to meet the purchase price of the goods or services to be sold or provided by the Selling Member, pay the balance of the purchase price to the Selling Member in cash rather than in Trade Dollars;
- (j) **(No change payable)** Where the Trade Dollar amount of the Gift Certificate exceeds the purchase price of the goods or services to be sold or provided by the Selling Member, the Selling Member is not obliged to pay any change or give any credit in favour of the bearer of the Gift Certificate.

6.7 Trade by Multi Trade Voucher. The procedure for conducting a Trade by way of "Multi Trade Voucher" is:

- (a) **(Issue of Multi Trade Voucher)** A Member may sell to another Member an agreed value Multi Trade Voucher entitling the bearer to participate in the Trading Program; The Selling Member completes the Multi Trade Voucher as specified including:
 - (i) *inserting the Selling Member's name and address;*

(ii) *date of issuance; and*

(iii) *The Selling Members authorised signature.*

- (b) **(Produce Multi Trade Voucher)** The bearer who intends to purchase goods or services shall produce prior to receiving the goods or services the Multi Trade Voucher to the Selling Member;
- (c) **(Selling Member's obligation)** A Selling Member must supply to the bearer goods and services to the value of the prepaid Multi Trade Voucher as per conditions denoted on the Multi Trade Voucher;
- (d) **(Payment of balance in cash)** The bearer of a Multi Trade Voucher may, if the Trade Dollar amount of the Multi Trade Voucher is insufficient to meet the purchase price of the goods or services to be sold or provided by the Selling Member, pay the balance of the purchase price to the Selling Member in cash rather than in Trade Dollars;
- (e) **(No change payable)** Where the Trade Dollar amount of the Multi Trade Voucher exceeds the purchase price of the goods or services to be sold or provided by the Selling Member, the Selling Member is not obliged to pay any change or give any credit in favour of the bearer of the Multi Trade Voucher.

6.8

Acknowledgment of Liability. The signing by or on behalf of the Buying Member of the Transaction Voucher or the providing of the Buying Member's Card details constitutes, subject to these Rules:

- (a) acknowledgment by the Buying Member that the Trade to which the transaction relates has been conducted in accordance with these Rules;
- (b) agreement on the part of the Buying Member that the Buying Member's Trade Account is to be debited in accordance with Rule 5.3(b) with the amount referred to in the Proof Of Transaction; and
- (c) if the effect of debiting the Trade Account of the Buying Member with the Trade Dollar amount of the Trade, after offsetting that amount against any credit balance in that Trade Account, is to produce a debit balance in that Trade Account, an acknowledgment and evidence of the Buying Member's liability as provided in Rule 3.4.

6.9

Non Compliance with Procedure. Where the Buying Member or the Selling Member does not comply with any part of the Trade procedure set out in these Rules, the Trade is valid unless the Manager refuses to process it or, after it is processed, reverses, cancels or alters the entries in the Trade Accounts of the Members involved.

7. ELECTRONIC PROCESSING SERVICES

- 7.1 Availability.** Electronic Processing Services are available for Members which register with the Manager for use of telephone, mobile devices, EFTPOS terminals and/or internet communication systems which meet the required specifications and configurations as may be specified by the Manager from time to time. Each registered Member shall procure and maintain the hardware and data connection which meet these requirements at its own expense.
- 7.2 Changes.** The Manager may inform Members from time to time about changes for access to or operating the Electronic Processing Services. Members must comply with all changes when accessing or operating the Electronic Processing Services.
- 7.3 As is.** The Electronic Processing Services are provided on an “as is”, “as available” basis only and the time periods during which these services may be available are subject to change with minimal or no notice. The Manager is permitted at any time, at its sole discretion and without prior notice, to temporarily suspend the operation of these services for updating, maintenance and upgrading purposes or any other purpose that the Manager deems appropriate. In such event, the Manager and its Associates shall not be liable for any loss, liability or claims, actions, expenses or damage that may be incurred directly or indirectly by a Members a result of the suspension of services.
- 7.4 Procedures.** Members using Electronic Processing Services are responsible for compliance with the Procedures for using the Electronic Processing Services. The Manager and its Associates are not responsible for any error/omission made by Members in using these services. The Procedures may be varied by the Manager from time to time. Members undertake to be bound by, and to comply with, all Procedures as may be issued by the Manager from time to time. The Manager shall not be bound by or obligated to take any action on any Instructions that do not comply with the Procedures. The Manager may reject any non-compliant Instructions.
- 7.5 Members Trading Portal.** The Bartercard Members Trading Portal and/or associated websites and applications.
- 7.6 Instructions.** The Manager will rely on all requests, communications, operations or transactions transmitted by Members using telephone, mobile devices, EFTPOS terminals and/or internet communication systems or by the Member’s login through the Members Trading Portal, registered for Electronic Processing Services. Members must not permit or allow any unauthorised person to access their Electronic Processing Services. If a Member has reason to believe that someone else has accessed their Bartercard account(s)

using the Electronic Processing Services, the Member must immediately notify and instruct the Manager in writing to revoke their access to Electronic Processing Services.

A Member will not be liable for unauthorised Instructions received by the Manager after the Member has notified the Manager to revoke its access to Electronic Processing Services. Until the Manager receives notice of revocation, all Instructions received by the Manager associated with the Member's account will be deemed to have come from the Member. The Manager shall be entitled to rely on such Instructions. The Members acknowledge that the Manager may not be able to reverse or cancel any transaction executed on Instructions received prior to the Manager's receipt of the notice of revocation. By providing Instructions to the Manager via the Electronic Processing Services, the Member providing the Instructions warrants and acknowledges that:

- (a) all details in the Instructions are true and correct and payable in Bartercard Trade Dollars;
- (b) the transaction does not violate the Rules;
- (c) the Buying Member and the Selling Member have voluntarily entered into the transaction and are not disputing any part of the transaction; and
- (d) they have used reasonable care and diligence in the transaction to detect fraud or deception in connection with the transaction.

7.7 Records.

- (a) The Buying Member and the Selling Member shall maintain written or electronic records to substantiate any transaction facilitated with the Electronic Processing Services. Upon request by the Manager, the Selling Member and the Buying Member shall each produce such records. If the Selling Member or the Buying Member fails to produce such records within ten (10) days after a request by the Manager, the Manager shall have the right, which it may exercise in its absolute discretion, to reverse or alter all or part of the relevant transaction(s).
- (b) The Manager's records, any records of Instructions made, performed, processed or effected through the Electronic Processing Services by a Member or any person purporting to be a Member, any record of transactions relating to the Electronic Processing Services and any record of transactions maintained by the Manager or by any person authorised by the Manager relating to or connected with the Electronic Processing Services whether stored in electronic or printed form, shall be conclusive evidence of the Instructions and transactions and the Member's liability to the Manager for the transaction. All such

records are admissible in evidence as proof of the transaction and Instructions and the Members waive any right to challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records on the basis that the records were incorporated and/or set out in electronic form or were produced by or are the output of a computer system.

- 7.8 Non Compliance with Procedure.** Where the Buying Member or the Selling Member do not comply with any part of the Trade procedure set out in these Rules, the Trade is valid unless the Manager refuses to process it or, after it is processed, reverses, cancels or alters the entries in the Trade Accounts of the Members involved
- 7.9 Termination and Suspension of Electronic Processing Services.** The Manager shall be entitled to terminate a Member's Electronic Processing Services, without notice, upon the occurrence of any of the following events:
- (a) a Member's breach of the Rules;
 - (b) continued access to the Electronic Processing Services by a Member poses a threat to the security, integrity or operations of the Electronic Processing Services or the Manager, or the information systems of the Manager or the other Members;
 - (c) the Member's Electronic Processing Services has remained inactive for a period of three (3) months; and
 - (d) the Member's Bartercard membership has been terminated, or its Bartercard account closed.

8. SPECIAL TRADE PROCEDURE

- 8.1 Special Trades.** A special procedure applies to Trade transactions involving the sale or provision of goods or services in the form of special orders, construction jobs, provision of services over time or work-in-progress which must be paid for when work is completed or in stages and such other transactions as the Manager may from time to time determine. In this Rule, such a transaction is referred to as a "Special Trade" and the goods or services so sold or provided are referred to as a "Special Job or Order".
- 8.2 Procedure.** The procedure applicable to a Special Trade is as follows:
- (a) **(Estimate of cost)** Before authorising the Selling Member to commence the Special Job or Order, a Buying Member should obtain a written estimate from the Selling Member;
 - (b) **(Deposit in Trade Dollars)** Before commencing the Special Job or Order, if appropriate, the Selling Member should obtain a deposit or down payment in Trade Dollars. Payment of the deposit or down payment can be made by Transaction Voucher

- and the Manager's authorisation must be obtained if the amount exceeds the Minimum Authorised Amount;
- (c) **(Shortfall payable in cash)** The Selling Member should include in its contract a provision that if the Buying Member does not have sufficient Trade Dollars in its Trade Account when the Manager's authorisation is requested, then the difference will be paid by the Buying Member by way of cash payment to the Selling Member;
 - (d) **(Special Authorisation)** In order to "reserve" an amount of Trade Dollars from the Buying Member's Trade Account until a particular Special Job or Order is completed, the Selling Member must forward to the Manager a written request, signed by the Selling Member and countersigned by the Buying Member, for "Special Authorisation" for the estimated amount less any deposits or down payments. If the Manager grants Special Authorisation, it shall give a "Special Authorisation Number", and the amount so authorised will then be frozen in the Buying Member's Trade Account which will be treated by the Manager as if that amount had been debited from it;
 - (e) **(When complete)** When the Special Job or Order has been completed or partially completed, the Selling Member shall complete a Transaction Voucher for the amount due, obtain the Buying Member's signature, endorse the Transaction Voucher with the Special Authorisation Number and forward the completed Transaction Voucher to the Manager. In the event of partial payment, the Special Authorisation shall be reduced by that amount;
 - (f) **(Manager to credit Selling Member)** Subject to these Rules the Manager shall, upon receipt of the duly signed and completed Transaction Voucher, credit the Selling Member's Trade Account and debit the Buying Member's Trade Account.

9. AUTHORISATION PROCEDURE

- 9.1 Authorisation to be Sought.** Where the Trade Dollar value of a proposed Trade exceeds such amount as the Manager may specify from time to time or as endorsed on the Member's Card, (the "Minimum Authorised Amount") the Selling Member must seek the Manager's authorisation for the Trade.
- 9.2 Authorisation Granted.** If the Manager grants its authorisation to a proposed Trade then the Manager will issue an Authorisation Number in respect of it which shall freeze the funds in the Buying Member's Trade Account.
- 9.3 Refusal of Authorisation.** The Manager shall be entitled to refuse to give its authorisation for any reason including, without limitation that:

- (a) the Buying Member does not have sufficient Trade Dollars or available credit in its Credit Line;
- (b) either party is not a Member in Good Standing;
- (c) either party is in breach of the Rules; or
- (d) the Selling Member failed to seek or obtain the Manager's authorisation before the transaction.

9.4 Expiry of Authorisation. An authorisation granted by the Manager is valid only for a period of fourteen (14) days after the date upon which it was granted, after which it expires whereupon the Manager may treat the Trade as if no authorisation had ever been granted.

10. PROCESSING OF TRADE TRANSACTIONS

10.1 Posting of Authorised Trade. Where the Manager has granted its authorisation and the Authorisation Number so issued has been endorsed on the Transaction Voucher, the Manager shall, subject to these Rules, post the Trade to the Trade Accounts of the Selling Member and the Buying Member.

10.2 Where Manager Suspects Breach, Fraud etc. The Manager is not obliged to process a Trade where it reasonably suspects a breach of the Rules, fraud and/or misleading or deceptive conduct by any party to the Trade. The Manager is not obliged to refuse to process any Trade under any circumstances.

10.3 Lost or Stolen Card. A Member is liable for all transactions processed on its own and any Additional Cardholder's lost or stolen card(s) up until the Manager receives written notification from the Member that its card or any Additional Cardholder's card has been lost or stolen. Upon making a written notification that a card has been lost or stolen, a Member must prove to the Manager's satisfaction that the Member has made all reasonable efforts to reclaim a lost or stolen card.

10.4 Where No Authorisation Number. If an Authorisation Number is not endorsed on a Transaction Voucher, the Manager may post the Trade to the Member's Trade Account but shall have no obligation to do so.

10.5 Late Receipt by Manager. The Manager, in its sole discretion, may decline to process any Electronic Processing Services Trade, Transaction Voucher, Gift Certificate or Other Voucher which is received later than fourteen (14) days after the date of the Trade, even if authorisation was granted.

10.6 Audit and Verification. All Trades are subject to final audit and verification by the Manager and, in the case of errors or inaccuracies, the Manager may at its sole discretion debit or credit a Member's Trade Account so as to correct any error without giving prior notice to the Member whose Trade Account is affected.

- 10.7 Copy of Transaction Voucher.** A Member who requests a copy of a Transaction Voucher will be provided with a copy by the Manager subject to payment of an administrative fee which may be prescribed from time to time.
- 10.8 Copy of Monthly Statements.** A Member who requests a copy of a statement detailing that Member's transaction/s ("Monthly Statement") will be provided with a copy by the Manager subject to payment of an administrative fee which may be prescribed from time to time.
- 10.9 Record Keeping.** Members will be charged an administrative fee which may be prescribed from time to time for payments that are not honoured and are processed again.

11. TRADE CONDUCT

- 11.1 100% Barter.** All Trades are to be conducted on a one hundred percent (100%) barter basis unless the Seller has before entering the Trade obtained the consent of the Manager to Trade in cash or partly in cash and partly by way of trade which consent may be given conditionally, withheld and/or later withdrawn at the sole and unfettered discretion of the Manager.
- 11.2 Refusal to Trade.** If a Member which has been requested to enter into a Trade with a Member in Good Standing declines to enter into that Trade with that Member in circumstances where the first Member would have entered into a transaction if the second Member were willing to pay cash, then the first Member will be deemed to have breached these Rules unless an Authorisation Number has been sought and refused or the Member is on Standby. No Member in debit may refuse to accept Trade under any circumstances.
- 11.3 Standby.**
- (a) **(Pre-requisite conditions)** Where the credit balance of the Trade Account of a Member exceeds the greater of:
 - (i) *T\$10,000 Trade Dollars; or*
 - (ii) the equivalent of the Trade Dollar amount of any line of credit in Trade Dollars that has been granted to the Member by the Manager under these Rules; then that Member may give to the Manager thirty (30) days prior written notice of its intention to temporarily suspend its participation as a Selling Member in the Trading Program (referred to as going on "Standby");
 - (b) **(Expiry of notice period)** Upon the expiration of the said period of thirty (30) days, or such shorter period as the Manager may allow, the Member will be deemed to be on Standby, and shall be entitled to refuse to Trade notwithstanding Rule 11.2;
 - (c) **(Reverting to normal)** As soon as the credit balance of the Member's Trade Account decreases below the amount

referred to in Rule 11.3(a), the Member shall be deemed to be no longer on Standby;

- (d) Notwithstanding 11.3(a)-(c) above, a Member may not go on Standby while they are listed in the Directory that is current at that time and any request to go onto Standby will not be considered until the next Directory is released.

11.4 Taxes and Duties. All tax or duty applicable on a Trade are to be paid in Trade Dollars at the point of purchase by the Buying Member.

11.5 Direct Trade. The following provisions of this Rule shall apply in respect of any transaction between two or more Members, which is conducted otherwise than in accordance with the provisions of these Rules:

- (a) members acknowledge and agree that all transactions taking place between them arise as a consequence of their being introduced to one another as a result of their being Members of the Trading Program;
- (b) in the event that a Member for the purpose of avoiding Transaction/Service Fees engages in Direct Trade with another Member or if a third party Member makes payment on another Member's behalf ("Direct Trade"), then each Member involved in that Direct Trade shall pay a transaction fee equal to the Transaction/Service Fee of the value of that Trade which shall fall due and payable to the Exchange Company upon completion of that Direct Trade;
- (c) the provisions of 11.5(b) of this Rule shall not apply where the Manager, in its absolute discretion, is satisfied that the Members entered into a Direct Trade for legitimate reasons other than the avoidance of paying Transaction/Service Fees;
- (d) if the Manager has reason to believe that Members have engaged in Direct Trade, the Manager may request from any one or all of the Members it believes have engaged in the Direct Trade, a copy of the Tax Invoice relating to the transaction which must be supplied within 48 hours of the request being made;
- (e) notwithstanding the other provisions of this Rule, the Manager may suspend or terminate the right of a Member to participate in the Trading Program, if the Manager considers that the Member has entered into a Direct Trade in contravention of the spirit of these Rules.

11.6 Overpricing.

- (a) A Member must not charge more for any goods or services in Trade Dollars than it would have charged if the Trade was a cash transaction. Charging Trade Dollar prices in excess of the cash price is a breach of this Rule and is referred to as "Overpricing";

(b) The Manager may investigate or enquire into complaints of Overpricing by a Member.

11.7 Voucher Splitting.

(a) Where a Member avoids obtaining an Authorisation Number in accordance with Rule 9 by splitting a Transaction Voucher for an amount which would otherwise be in excess of the Buying Member's Minimum Authorised Amount, the Member is in breach of these Rules. The practice of splitting vouchers in breach of this Rule is referred to as "Voucher Splitting";

(b) If the Manager considers that the Member has entered into Voucher Splitting in breach of this Rule the Manager may:

(i) refuse to process the voucher, reverse, alter or cancel an entry in any Member's Trade Account; and/or

(ii) suspend or terminate the right of a Member to participate in the Trading Program.

11.8 Poor Service. Where in the Manager's opinion a Member fails to respond to another Member's enquiry or fails to respond to another Member in the same manner as the Member would have if the other Member were a cash customer, the Member shall be deemed to have engaged in "Poor Service" for which the Manager may suspend or terminate the right of the Member to participate in the Trading Program.

12. EXTRAORDINARY MEMBER TRADES

12.1 Extraordinary Member Trades. The Manager may participate in the Trading Program as an Extraordinary Member and the Manager may debit or credit the Manager's Trade Account and correspondingly credit or debit the Trade Account of the other Member participating in the Trade.

12.2 Extraordinary Member's Credit Limit. Subject to the Deed of Management, the Manager as an Extraordinary Member is entitled to a line of credit in Trade Dollars.

12.3 Warranty as to Title. Where the Manager, acting in its Extraordinary Member capacity, participates in the Trading Program as a Selling Member, the Manager warrants to the Buying Member that the Manager has title to the goods to be traded free from any charge, lien or encumbrance.

12.4 The Competition and Consumer Act 2010 implies terms conditions and warranties ("prescribed terms") into contracts for the supply of goods and services and prohibits the exclusion, restriction or modification of certain terms, conditions and warranties. Some prescribed terms permit a supplier to limit its liability for a breach of the prescribed terms. Except as provided by prescribed terms:

- (a) the liability of the Extraordinary Member in respect of a breach of a prescribed term relating to the products or any part of the products is limited at the option of the Extraordinary Member to the replacement or repair of the products part thereof or payment of the cost of repairing or replacing the product or any part of the products;
- (b) in these conditions the Member does not have under any circumstance any cause of action against or right to claim or recover from the Extraordinary Member for, or in respect of, any loss or damage of any kind whatsoever, caused directly or indirectly by:
 - (i) any defect in material or workmanship of, or any other defect whatsoever in, or unsuitability for, any purpose of the products or any part of the products; or
 - (ii) by default or negligence on the part of the seller or of any employee, contractor or agent of the seller or of any person for whom the seller has legal responsibility relating to the supply of, or otherwise concerning products or any part of the products.

12.5 The provisions of the Sale of Goods Act 1896 (Queensland) are not prescribed terms for the purpose of these rules and the Extraordinary Member hereby specifically excludes those provisions from any contract between it and the Member.

12.6 Clause 12.4 and 12.5 shall not apply in circumstances where:

- (a) the Member is a “Consumer”; and
- (b) the contract of purchase is a “Standard Form Contract”, within the meaning of the Trade Practices Amendment (Australian Consumer Law) Act 2010.

12.7 Assignment of Warranty. Upon the completion of any Trade in which the Manager, acting in its Extraordinary Member capacity, participates as a Selling Member, the Manager assigns the benefit of any warranty attaching to the goods to the extent that the benefit of any warranty attaching to the goods is lawfully capable of assignment.

12.8 Retention of Title. Where the Manager, acting in its Extraordinary Member capacity, participates in the Trading Program as a Selling Member, the following provisions apply to the exclusion of the provisions of the Sale of Goods Act, 1896 (Queensland) and any other act or law relating to the passing of title between a seller and a buyer.

- (a) title to goods Traded between the Extraordinary Member and the Buying Member shall remain with and vest in the Extraordinary Member at all times until:
 - (i) the full purchase price has been discharged by a debit entry in the Trade Account of the Buying Member; and
 - (ii) in the event that such a debit entry results in the Trade Account

- of the Buying Member having a debit balance, that debit balance has been discharged either by payment from the Buying Member to the Manager, or by credits subsequently made to the Buying Member's Trade Account as a result of transactions carried out in accordance with these Rules;
- (b) whilst title to goods Traded between the Extraordinary Member and the Buying Member remains with and is vested in the Extraordinary Member, the Extraordinary Member may re-take possession of such goods (or any part thereof) unless, within thirty (30) days after the completion of the transaction for which purpose the date on which the transaction is entered in the Buying Member's Trade Account shall be conclusive evidence of the date of the transaction), title to the goods has transferred to and become vested in the Buying Member in accordance with the provisions of paragraph (a) of this Rule;
- (c) for the purposes of paragraph (b) of this Rule, the Extraordinary Member is hereby irrevocably authorised by the Buying Member to do all or any of the following things in re-taking or attempting to re-take possession of the goods (or any part thereof), and may exercise any of the following powers through any of the Extraordinary Member's directors, officers, servants, agents, or sub-contractors; that is to say:
- (i) to enter upon any land, buildings or property owned, leased or occupied by the Buying Member;
 - (ii) to use force in order to obtain entry to any such land, buildings or property;
 - (iii) to sever, remove and disconnect the goods (or any part thereof) from any land, building or other property to which the same have been attached or affixed, without liability for any damage or injury thereby caused to such land, buildings or other property;
 - (iv) to appoint a receiver to take possession of the goods or any part of them; and
 - (v) in the event that the goods (or any part of them) have been inter-mingled with goods of the same or a similar character or description, to appropriate out of the goods so inter-mingled such quantity or amount as in the opinion of the Extraordinary Member fairly represents the quantity or amount and the value of the goods sold by the Extraordinary Member to the Buying Member;
- (d) whilst title to any goods sold by the Extraordinary Member, to the Buying Member remains vested in the Extraordinary Member:
- (i) the Buying Member must not sell, lease, encumber, or otherwise

deal with or part with possession of the goods or any part thereof until title has transferred to and become vested in the Buying Member; and

- (ii) in the event that the Buying Member does (in breach of the provisions of paragraph (d)(i) of this Rule) sell, lease, encumber, deal with or part with possession of the goods or any part thereof, all proceeds of such sale, leasing, encumbering, dealing or parting with possession of the goods must be placed by the Buying Member in a separate account, and be held by the Buying Member on trust for the Extraordinary Member until such time as title to the goods has passed to and become vested in the Buying Member in accordance with the provisions of paragraph (a) of this Rule;
- (e) notwithstanding anything hereinbefore contained, the Buying Member agrees to grant security in favour of the Extraordinary Member over any goods supplied pursuant to this paragraph and to execute any documents required by the Extraordinary Member to perfect its security.

12.9 Competition and Consumer Act 2010.

To the extent permitted under the Competition and Consumer Act 2010 or any other applicable law the Manager and the Exchange Company exclude all conditions and warranties implied into the Rules and the Manager and the Exchange Company shall not be liable for any consequential, special or indirect loss or damage (including but not limited to loss of opportunity, loss of revenue or loss of profits. To the extent that the Manager or the Exchange Company is able to limit the remedies available under the Rules, the Manager and the Exchange Company expressly limit their liability for breach of a non-excludable statutory guarantee to supplying the trading services again or the payment of the cost of having the trading services supplied again.

PART III - ADMINISTRATION OF THE PROGRAM

13. EXCHANGE COMPANY'S ROLE

- 13.1 Provision of Services.** The Exchange Company shall use its best efforts to cause the Manager to provide to Members in Good Standing the following services (the "Exchange Company Services") the:
- (a) maintenance of current lists of all Members and Members in Good Standing;
 - (b) provision to Members of access to non-confidential authorised details of current information on Members in Good Standing and goods or services available under the Trading Program;

- (c) publication from time to time of news bulletins and the making available of advertising space in such news bulletins to Members in Good Standing for goods or services they may offer through the Trading Program, for a fee;
- (d) operation and maintenance of a procedure by which Members may obtain Authorisation Numbers in accordance with these Rules;
- (e) administration and enforcement of the Rules;
- (f) ongoing review and, where necessary, amendment of the Rules;
- (g) processing of properly completed Transaction Vouchers, Gift Certificates and Other Vouchers;
- (h) carrying out of the duties and functions of the Manager as contained in these Rules and the Deed of Management; and
- (i) carrying out of the duties and functions of the Exchange Company as are required to be carried out by the Manager on behalf of the Exchange Company under these Rules and the Deed of Management.

13.2 No Liability. The Exchange Company and the Manager will not be liable to any Member for failure to provide, or for the manner of providing the Exchange Company Services from time to time, including those services set out in Rule 13.1.

14. MANAGER'S ROLE

14.1 Monitor and Recover Debit Balances. The Manager shall take all reasonable steps to:

- (a) monitor all Trade Accounts which have a debit balance and that the Members holding those accounts maintain them in accordance with these Rules;
- (b) in the name of the Exchange Company, pursue recovery of debit balances where the Rules provide that they are recoverable and where the Manager is satisfied that the debit balance is commercially viable to pursue.

14.2 Regulate and Control. The Manager has the right and power to regulate and control the number of Trade Dollars within the Trading Program.

14.3 Issue. The Manager shall, on behalf of the Exchange Company, make available to Members in Good Standing, blank Transaction Vouchers and Gift Certificates and any other recognised vouchers or certificates that may be prescribed from time to time by the Manager for use in connection with any Trade Transaction.

14.4 Gift Certificate. The Manager may, on behalf of the Exchange Company, upon request or in accordance with Rule 21 of these Rules, issue to any Members, Gift Certificates for amounts in Trade Dollars as specified therein, which can be used by that Member to

participate in a Trade in accordance with Rule 6.6.

14.5 Member's Card.

- (a) The Manager shall, on behalf of the Exchange Company, issue from time to time to Members in Good Standing, a Member's Card (the "Member's Card/Bartercard Card") which shall, upon its production by the Member named on the card to another Member and, be prima facie evidence that the Member is a Member in Good Standing, but only in respect of purchases up to the amount if specified on the card, provided that any expiry date endorsed thereon has not passed;
- (b) The Member's Card shall remain at all times the property of the Manager and may not in any way be defaced or altered;
- (c) The Member's Card shall promptly be cut in half and returned to the Manager by the Member:
 - (i) upon cancellation of the right to use the Member's Card;
 - (ii) where the Member requests the Manager to cancel the Member's Card;
 - (iii) upon its expiry (although the Member's Card need not be returned to the Manager);
 - (iv) where a Member's Card has been previously reported lost or stolen, upon it subsequently being found.
- (d) In these circumstances an agent of the Manager may call on the Member to obtain possession of the Member's Card and the Member shall return the Member's Card to that agent upon sight and proof of authority to collect the Member's Card.

14.6 Periodic Statements. The Manager shall make available Monthly Statements to Members reflecting activity in their Trade Account and amounts that are due and owing to the Manager.

14.7 Deemed Accurate. Statements issued by the Manager are deemed to be accurate unless a Member notifies the Manager in writing of any discrepancy within fourteen (14) days of the Monthly Statement date.

14.8 Interim Account. A Member who requests an interim account particularising activity in that Member's Trade Account will be provided with it by the Manager.

14.9 Manager to act on behalf of Exchange Company. The Manager has the full and unfettered management and control of the affairs of the Exchange Company relating to the conduct and operation of the Trading Program. Where these Rules provide that any act, matter or thing is to be done or caused to be done or may be done by the Exchange Company, the Manager may do or cause to be done that act, matter or thing on behalf of the Exchange Company.

15. DIRECTORY, ADVERTISING AND PROMOTIONS

15.1 Authorisation. The Member authorises and requests the Exchange Company and the Manager to notify and advertise to other Members the availability in the Trading Program of that Member's goods or services for the purpose of:-

- providing services
- enhancing customer service
- answering queries
- client research
- facilitating Trade transactions

The Member authorises the Exchange Company, the Managers and its agents, contractors, authorised employees and any related party:-

- (a) to send to it commercial electronic messages for the purpose set out in this Rule 15.1, and
- (b) not to include in the commercial electronic message a functional unsubscribe facility.

Electronic messages shall have the same meaning in these Rules as in the SPAM Act 2003.

15.2 Directory - Publication & Distribution. The Exchange Company shall cause the Manager from time to time to publish and distribute a Directory, either in print or electronic format (the "Directory"), that contains the names and such other information concerning Members that the Manager from time to time determines.

15.3 Directory. A Member in Good Standing shall be permitted to have its name published in the Directory. A Member in Good Standing shall (unless the Manager otherwise determines) be entitled to place a brief description of its business, goods or services in the next published Directory after payment by the Member of its Directory Fee. The Exchange Company and the Manager will not be liable for a failure to include a Member's name in the Directory.

15.4 Member's Listing. A Member's listing in the Directory shall be classified according to the classification system determined by the Manager from time to time.

15.5 No Warranty as to Accuracy of Directory etc. The Exchange Company and the Manager give no warranty as to and will not be responsible for the accuracy of the information in relation to any Member contained in the Directory, or any promotional or other material provided by the Exchange Company or the Manager or any Franchisee or servant or agent of any of them to Members, will not be liable for any error or omission therein. The Exchange Company and the Manager shall be indemnified from any claims, loss or damages by the Member who provided the inaccurate information.

- 16. TRANSACTION, SERVICE, MARKETING AND SUPPORT, AND DIRECTORY FEES**
- 16.1 Transaction/Service Fee.** Each Member shall pay a fee in respect of each and every Trade in which it participates (a “Transaction/Service Fee”) which shall be equal in amount to such percentage of the value of the Trade (inclusive of any tax) as the Manager from time to time determines, payable, at the election of the Manager, in cash or in Trade Dollars or both. The Trade Dollar amount of any Transaction/Service Fee may, at the election of the Manager, be debited to the Trade Account of either or both of the Members participating in the Trade at the Manager’s discretion.
- 16.2 Marketing and Support Fee/Service Fee.** Each Member must pay to the Exchange Company a monthly fee (the “Marketing and Support Fee”) which in the discretion of the Exchange Company will be payable entirely in cash or partly in cash and partly in Trade Dollars, or entirely in Trade Dollars.
- 16.3 Directory Fees and Display Advertising Fees.** The Exchange Company is entitled to charge each Member a Directory Fee and a Display Advertising Fee either in cash or in Trade Dollars or partly in cash and partly in Trade Dollars which shall be paid by each Member in the manner prescribed by the Manager from time to time.
- 16.4 Payment.**
- (a) Each Member must pay to the Exchange Company the full amount of all fees and charges owing by it within seven (7) days of the date of the of Monthly Statement or within such other period as may be notified in that statement unless the Member has agreed with the Manager in writing that payment is to be sent and received together with the Transaction Voucher to which the fee relates, in which case the Member, (in these Rules called a “Fees with Voucher Member”) must forward such fee together with that Transaction Voucher;
- (b) All fees mentioned in paragraph 16 of these Rules are detailed in the Membership Agreement or elsewhere in these Rules.
Members will be notified in writing of any changes to the fees.
- 16.5 Sales Requirement, Debit Balance Accounts.** Members who during the month maintained a debit balance in their account are required to transact sales during that month equivalent to six percent (6%) of their debit balance, which will be calculated on the opening balance or the closing balance whichever is the lesser amount.
- 16.6 Prepayment.** The Manager in its sole discretion may require a prepayment of transaction service fees payable on transactions in excess of ten thousand (T\$10,000) trade dollars before the transaction is processed.

17. OVERDUE FEES OR OTHER MONIES

17.1 Late Fee Payment. - In the event that a Member fails to pay:

- (a) any fees or charges within the period referred to in Rule 16.4 or, in the case of a Fee with Voucher Member, when the Transaction Voucher to which the fee relates is forwarded to the Manager; and/or
- (b) any other monies which become payable under these Rules, by the date upon which it became payable; then the Member must pay to the Exchange Company a Late Fee Payment in cash of \$25.00.

17.2 Arrears. If a Member is in arrears of payment of any Transaction/ Service Fees, Marketing and Support Fee/Service Fee or Directory Fees or any other fees or charges for more than ten (10) days after the date of the Monthly Statement or, in the case of a Fees with Voucher Member, when the Voucher is forwarded to the Manager, then the Manager may cancel any Trade Dollar Credit Line granted to the Member and/or freeze the Trade Dollar balance and prevent that Member from participating as a buyer in any Trade until satisfactory arrangements are made with the Manager for payment of any monies in arrears.

17.3 Credit Line Reassessment Fee.

If after the payment in full of any arrears the Manager approves a line of credit for a Member whose Trade Dollar Credit Line was cancelled, the Member will be charged a Trade Dollar Credit Line Reassessment Fee in cash of \$35.00.

17.4 Manager's election to take Trade Dollars.

- (a) **(Manager may elect)** Where any fees payable by a Member in cash remain outstanding for longer than sixty (60) days after they fell due, the Manager may, in its sole discretion and upon giving notice in writing to the Member, elect to convert the Member's cash indebtedness into a Trade Dollar obligation of three times the Trade Dollar equivalent of the cash amount outstanding, and thereupon debit the Member's Trade Account with the Trade Dollar amount and credit the Manager's Trade Account with that amount.
- (b) **(Member may pay cash)** A Member whose liability in cash for outstanding fees has been converted to Trade Dollars in accordance with Rule 17.4(a) may, at any time within thirty (30) days after receiving a notice under Rule 17.4(a), satisfy its newly converted obligation in Trade Dollars by paying to the Exchange Company the amount of the cash fees that was payable immediately before the conversion, whereupon the Manager shall reverse the Trade Dollar debit referred to in Rule 17.4(a).

- 17.5 Debit Balance, Not Enough Trade.** In the event that a Member fails to transact sales during the month equivalent to six percent (6%) of their debit balance, which will be calculated on the opening balance or the closing balance whichever is the lesser amount referred to in Rule 16.5, the Member will be charged a cash fee of one percent (1%) per month (or such other rate as the Manager may prescribe from time to time) calculated on the opening balance or the closing balance whichever is the lesser amount. The fee will be capped at:
- a) \$50.00 cash per month for accounts where the opening balance or the closing balance is less than \$15,000 Trade Dollars; and
 - b) \$100.00 cash per month for accounts where the lesser of the opening balance or the closing balance is \$15,000 Trade Dollars or more.
- 17.6 Electronic Processing Fee.** The electronic processing fee means the charge that may be imposed and varied from time to time by the Manager, subject to the Manager having first provided thirty (30) days' notice of such variation to the Members.
- 18. BREACH OF RULES**
- 18.1 Investigate Complaints.** The Manager is entitled but shall not be compelled to enquire into and investigate complaints of breaches of these Rules by a Member.
- 18.2 Fair Dealings.** The Manager may suspend and/or restrict a Member's right to participate in the Trading Program, and take such other action as it is empowered to pursuant to these Rules, in order to promote or ensure fair dealings between Members. The Manager may from time to time issue Fair Trading Guidelines, which Members must comply with.
- 18.3 Suspension and Show Cause.** If the Manager suspects that a Member has breached these Rules, the Manager:
- (a) may give notice of the breach in writing to the Member and request the Member to show cause in writing within seven (7) days as to why its Membership should not be terminated;
 - (b) may immediately, and without notice suspend and/or otherwise restrict, at the Manager's absolute discretion, the Member's right to participate in the Trading Program.
- 18.4 Termination.** If, at any time after the expiry of seven (7) days from the date upon which a notice under Rule 18.3(a) was sent to a Member, the Manager considers in his absolute and unfettered discretion that the right of any Member to participate in the Trading Program should be terminated, the Manager may terminate the Member's right to participate in the Trading Program

immediately and shall thereupon notify the Member accordingly, which termination shall have immediate effect.

- 18.5 Suspension.** If the Manager suspends a Member's right to participate in the Trading Program, all activity in the Member's Trade Account must cease until such time as the Manager has made its determination under Rule 18.4.
- 18.6 Manager's Decision Conclusive.** A decision of the Manager to suspend or terminate a Member's Trade Account will be final and conclusive and can only be reconsidered, reversed, revoked or altered by the Manager in its absolute discretion.
- 18.7 Payment of Costs.** In the event of a breach of the Rules by a Member, that Member must pay to the Manager all reasonable legal costs of the Manager and/or the Exchange Company in enforcing these Rules on an indemnity basis together with interest at the rate of ten percent (10%) per annum from the date upon which such costs are paid by the Manager until the date on which the Member makes payment.

19. TRADE OUT AND CESSATION OF PARTICIPATION

- 19.1 Manager may require Pre-Payment.** If:
- (a) the Manager reasonably believes that a Member is spending the credit balance in the Member's Trade Account or reducing the debit balance in the Member's Trade Account in anticipation of ceasing future participation in the Trading Program; or
 - (b) a Member has given notice to the Manager or the Exchange Company or has, by its actions, in the opinion of the Manager indicated that it intends to cease participation in the Trading Program; or
 - (c) a Member's right to participate in the Trading Program has been terminated but the Manager allows the Member to finalise its Trade Account by entering into Trades as a Selling Member only; then the Manager is entitled to require immediate pre-payment in cash of the Transaction Fees and Service Fees which will become payable on the debit or credit balance of the Member's Trade Account.
- 19.2 No Trading Unless Fees Pre-Paid.** Where the Manager requires a Member to pre-pay fees under Rule 19.1 that Member is not permitted to enter any Trade until those fees are paid.

20. REVERSAL OF TRANSACTIONS

- 20.1 Manager may reverse certain Transactions.** The Manager may reverse, alter or cancel an entry in any Member's Trade Account in relation to a Trade if:

- (a) both the Buying Member and the Selling Member request the Manager in writing to do so;
- (b) the Transaction Voucher in respect of the Trade was not or does not appear to have been signed by an authorised signatory or was not signed at all; or
- (c) there was, in the Manager's opinion, some breach of these Rules or a fraudulent act in connection with the conduct of the transaction; or
- (d) the Manager has reason to believe that the transaction is fraudulent.

20.2 Member may Show Cause. Before reversing, altering or cancelling any entry by reason of the Manager believing that there has been a breach of any of these Rules in connection with any transaction, the Manager shall give the Buying Member and the Selling Member notice requiring them to show cause within seven (7) days as to why the transaction/s should not be reversed, altered or cancelled.

20.3 Where Cause Not Shown. If the Members do not, to the Manager's satisfaction, show cause, the Manager in its absolute and unfettered discretion is entitled to reverse, alter or cancel the entry or entries in the Trade Account of the Buying Member and/or the Selling Member in respect of which the Manager considers there to have been non-compliance with these Rules in which event it shall be the responsibility of the Selling Member to seek payment of the consideration for the goods, services or other items of value from the Buying Member.

20.4 Transaction Frozen until Good Cause Shown. At any time until the Manager has made a determination under Rule 20.3 the Manager may freeze the entry in question, in the Trade Accounts of the Buying Member or the Selling Member or both, until such determination is made.

20.5 Consequence of Reversal of Transaction. If such reversal, alteration or cancellation of any entry in the Selling Member's Trade Account results in a failure of the consideration in whole or in part for the Trade then the Selling Member will have, as against the Buying Member the usual rights exercisable by the Selling Member but shall have no rights against the Manager or the Exchange Company. The Buying Member and the Selling Member hereby indemnify the Manager and the Exchange Company in respect of any exercise or purported exercise of its powers under this Rule.

20.6 No Obligation to Reverse. Notwithstanding Rules 20.1 to 20.4 (inclusive), the Manager has no obligation, in any case, to:

- (a) reverse, alter or cancel any entry;
- (b) call upon any Member to show cause why any entry should not be

- reversed, altered or cancelled;
- (c) freeze or unfreeze any entry; or
- (d) make any determination under this Rule.

21. TERMINATION

- 21.1 Termination by Member.** A Member must give a minimum of five (5) business days' notice in writing of its intention to cease to participate in the Trading Program.
- 21.2 Termination by Manager.** Notwithstanding Rule 18.3, the Manager may in its absolute and unfettered discretion suspend or terminate or suspend and then terminate a Member's right to participate in the Trading Program without notice for a breach of the Rules if:
- (a) the Member breaches any of these Rules or the terms of the Agreement including but not limited to engaging in unfair trading, poor service, voucher splitting, direct trading or unethical pricing;
 - (b) the Member has, on two (2) or on more occasions in the previous twelve (12) months been given a notice under Rule 18.3(a);
 - (c) the Member is in arrears of Transaction/Service Fees or any other charges for a period exceeding thirty (30) days;
 - (d) the Manager considers that it is not in the best interests of the Trading Program that the Member should continue to participate in it.
- 21.3 Member's Breach Causes Loss.** The Members acknowledge and agree that a breach of these Rules by a Member will cause loss and damage to the Exchange Company or the Manager which may include, but are not limited to:
- (a) administrative costs in dealing with the breach;
 - (b) financial loss due to loss of cash revenue of the Exchange Company, Service Fees, and any other fees and charges payable to the Exchange Company;
 - (c) expenditure of funds in obtaining legal advice, and in instituting and prosecuting recovery action;
 - (d) loss of the goodwill of Members towards the Trading Program and the Exchange Company;
 - (e) loss of trading volume; and
 - (f) loss of Members.
- 21.4 Damages for Breach Payable on Termination.** If a Member's right to participate in the Trading Program is terminated by the Manager for a breach of these Rules, that Member must pay to the Exchange Company as a genuine pre-estimate of damages and not as a penalty \$250.00 cash plus GST within twenty eight (28) days of the date of notice of termination of the right to participate. The provisions of this Rule apply in addition to and not in derogation from

the provisions of the Rules applicable in the event that a Member ceases to be a Member of the Trading Program including Rule 21.5.

21.5 Consequences of Termination. Upon the termination of a Member's right to participate in the Trading Program:

- (a) **(Return cards etc)** The Member must immediately return to the Manager all Member's Cards, additional cards and used or unused Trade Transaction Vouchers, or other documents and property of the Exchange Company or the Manager;
- (b) **(Fees debited)** All cash and Trade Dollar Transaction/Service Fees, Directory Fees, Display Advertising Fees and any other fees and amounts payable by it under these Rules shall be immediately debited from the Member's Trade Account;
- (c) **(Where credit balance)** If after debiting the amounts referred to in Rule 21.5(b), the balance in the Member's Trade Account is a credit balance:
 - (i) *that Member must immediately pay to the Exchange Company the amount of cash and Trade Dollar Transaction/Service Fees that would have become payable by it in the ordinary course of the Trading Program if that Member had entered into a Trade as a Buying Member in an amount sufficient to spend the amount of Trade Dollars standing to its credit;*
 - (ii) *if the Member fails to pay the cash Transaction/Service Fees the Manager, on behalf of the Exchange Company, may debit the Member's Trade Account with an amount of Trade Dollars equivalent to three (3) times the cash Transaction/Service Fees so payable;*
 - (iii) *If after receipt of the cash Transaction/Service Fees, (or if the fees are not paid in cash, the debiting of the Member's account) the Exchange Company shall issue to the Member a replacement Member's Card or Gift Certificates expiring one hundred and twenty (120) days from the date of issue, having a Trade Dollar value equivalent to the remaining credit balance (if any) of the Member's Trade Account;*
- (d) **(Where debit balance)** If after debiting the amounts referred to in Rule 21.5(b), the balance in the Member's Trade Account is a debit balance:
 - (i) *that Member must immediately pay to the Exchange Company the amount of cash and Trade Dollar Transaction/Service Fees that would have become payable by it in the ordinary course of the Trading Program if that Member had entered into a Trade as a Selling Member in an amount sufficient to bring its Trade Account to a nil balance;*
 - (ii) *the Member has thirty (30) days within which to Trade as a*

Selling Member and in so doing reduce, so far as it can, the debit balance of its Trade Account;

(iii) at the expiration of the thirty (30) day period, the Member must immediately pay the Exchange Company the amount of cash equivalent to the remaining debit balance in Trade Dollars of its Trade Account;

- (e) **(No refund of fees)** No fees or charges paid to the Exchange Company will under any circumstances be refunded.
- (f) **(Staff Accounts)** All terminated Staff Accounts will be dealt with in accordance with this Rule 21.5 and, upon termination, the Member that is associated with the Staff Account will be liable in respect to any debit balance, fees and/or charges in respect of the termination of the associated Staff Account.

21.6 Certificate as Evidence. A certificate signed by a director or secretary or other person authorised by the Manager is prima facie evidence and, in the absence of evidence to the contrary, is conclusive evidence:

- (a) that an amount stated in that certificate is due and payable by the Member to the Exchange Company in accordance with Rule 21.5 hereof;
- (b) that any other sum stated in the certificate is due and payable by the Member to the Exchange Company in accordance with these Rules;
- (c) of the amount of any interest payable by the Member to the Exchange Company in accordance with the provisions of these Rules; and
- (d) of any other fact, matter or circumstance whatsoever relevant to the dealings between the Member and the Exchange Company, or between the Member and the Manager, or between the Member and another Member, in relation to the provisions of these Rules.

21.7 Enforcement Expenses. If a Member is in default or in breach under these Rules, the reasonable amount of any enforcement expenses reasonably incurred or expended by the Manager or the Exchange Company in exercising any right under these Rules or arising from the default or breach are immediately payable by the Member with effect from the date on which the enforcement expenses are incurred or expended by the Manager or the Exchange Company.

21.8 Moneys Due for Payment. Termination for whatever reason shall not affect the right of the Manager under these Rules to enforce any provision relating to the payment of any fees, charges and any other moneys due.

21.9 Notification. Upon termination of a membership by the Manager, the Manager may in its sole discretion communicate the termination

of the membership to the Members of the Exchange by whatever means it deems appropriate.

PART IV - CREDIT LIMITS AND DEBT RESERVE FUND

22. TRADE DOLLAR CREDIT LINES

22.1 Credit Line. The Manager may grant or withdraw from any Member a line of credit in Trade Dollars in an amount and on terms consistent with that Member's creditworthiness and ability to repay and may take the following matters into consideration:

- (a) the financial position of the Member;
- (b) any credit references supplied by the Member;
- (c) the Member's trading history;
- (d) the nature of the Member's business; and
- (e) the period of time during which the Member has operated its business.

22.2 Security. The Manager may require security and/or a guarantee to support a Credit Line and also may require the Member to contribute a further non-refundable amount to the Debt Reserve Fund as an initial lump sum payment or as a monthly payment or both.

22.3 Approval. The grant of a Credit Line shall be subject to the approval of the Manager, which may withhold or grant its approval conditionally or unconditionally.

22.4 Trade Balance beyond Credit Limit. Where:

- (a) in the case of a Member to whom the Manager has not granted a line of credit, that Member's Trade Account is in debit, by any amount; there will be payable to the Exchange Company by that Member:
 - (i) *on demand the cash equivalent of that Trade Dollar amount in debit; and*
 - (ii) *an additional monthly charge in cash of \$35.00 while the trade account balance remains in debit;*
- (b) in the case of a Member to whom the Manager has granted a line of credit, that Member's Trade Account exceeds that line of credit, there will be payable to the Exchange Company by that Member;
 - (i) *on demand the cash equivalent of that Trade Dollar amount in excess of the line of credit; and*
 - (ii) *if the Trade Dollar amount exceeds the line of credit by an amount which is greater than (a) ten percent (10%) of the line of credit approved amount or (b) \$1,500 Trade Dollars, whichever is the lesser an additional monthly charge in cash of \$35.00 while the trade account balance remains in excess of the approved line of credit.*

23. DEBT RESERVE FUND

23.1 Purpose. A fund of Trade Dollars (“Debt Reserve Fund”) shall be maintained and applied in accordance with the Deed of Management for the purpose of injecting Trade Dollars into the Trading Program where Members are or may be unable to honour their obligations under the Trading Program.

23.2 Levy of Contribution.

- (a) The Manager may levy contributions to the Debt Reserve Fund in Trade Dollars, in accordance with the Deed of Management;
- (b) The amount of the monthly Debt Reserve Fund contribution payable by each Member shall be \$10.00 Trade Dollars unless the Manager levies some other amount;
- (c) The Manager may, in its absolute discretion, but subject to the Deed of Management, levy from each Member in any month a contribution in Trade Dollars to the Debt Reserve Fund of not less than \$5.00 Trade Dollars and not more than \$10.00 Trade Dollars.

PART V - MISCELLANEOUS

24. FRANCHISEES OF MANAGER

24.1 Grant of Franchises. The Manager may grant Franchises to Members (“Franchisees”) providing such Franchisees with rights to conduct businesses involved in the facilitation of Trade transactions in the Trading Program between Members.

24.2 Role of Franchisees. The role of a Franchisee is to recruit new Members to the Trading Program and to stimulate and facilitate Trade between Members. In consideration for these services, the Franchisee may receive a commission from the Manager.

24.3 Independent Contractors. Franchisees are independent business people, and in their capacity as Members in Good Standing may participate in Trades but do so solely on their own behalf and do not represent or act as agent for or otherwise on behalf of the Exchange Company or the Manager.

24.4 Not a Party. The Exchange Company and the Manager are not parties to, and are not responsible for, any Trades or other transactions or dealings between Franchisees and Members.

25. DISPUTES BETWEEN MEMBERS

Any dispute that may arise between the Buying Member and the Selling Member shall be settled by the parties themselves. The Exchange Company and the Manager are not obliged to resolve, arbitrate or mediate any disputes between Members. The Exchange Company or the Manager may at its discretion offer the

service of mediation or resolution of disputes between Members involving trades between Members.

26. CONFIDENTIAL INFORMATION AND RESTRAINT AGAINST COMPETITION

- 26.1 Access to Confidential Information.** From time to time whilst participating in the Trading Program a Member may have access to certain trade secrets or proprietary information of the Exchange Company and/or the Manager consisting of technical information, methods, processes, trade secrets, formulae, compositions, systems, techniques, computer programs, research projects, business information, customer lists, pricing data, sources of supply, financial data and marketing, training, production or merchandising systems and plans and other information relating to the Trading Program confidential to the Exchange Company (the “Confidential Information”).
- 26.2 Not use Confidential Information.** A Member must not, whilst remaining a Member or at any time after ceasing to be a Member, make use of the Confidential Information either:
- (a) for the financial advantage or benefit of the Member or any other person; or
 - (b) to the detriment or disadvantage of the Exchange Company or the Manager.
- 26.3 Restraint.** A Member may be or may become a Member of any other trade exchange, and may participate in that trade exchange, but otherwise must not, without the prior written consent of the Manager:
- (a) whilst continuing to be a Member, work for, engage in, or participate in any business competitive with the business of the Exchange Company or the Manager; or
 - (b) remain a Member whilst any of its directors, shareholders, partners, proprietors or any other related party/family member associated now or in the past with the Member works for, engages in, is or becomes a member of, or participates in any business competitive with the business of the Exchange Company; or
 - (c) at any time during any of the periods referred to hereunder, whether directly or indirectly and whether solely or jointly with or as director, manager, agent or servant of any person or corporation, carry on or engage in or be interested in or participate in any business which is competitive with the business of the Manager or the Exchange Company, at any place within twenty-five (25) kilometres from a place at which any other Member carries on business as appearing from the most recent Directory published by the Manager prior to the time of the Member ceasing to be a

Member; that is to say, at any of the following times:

- (i) at any time prior to the date being six (6) months after the Member ceases to be a Member;
- (ii) at any time between the date referred to in Rule 26.3(c)(i) hereof and the date six (6) months thereafter.

26.4 Intellectual Property. Members in good standing may only use the Bartercard current logo in accordance with the Rules and only to denote their membership in Bartercard. Members must not use Bartercard trademarks, intellectual property, copyrighted materials or logos (collectively “Bartercard intellectual property”) in any way that injures or diminishes the goodwill associated with the Bartercard intellectual property or in any way which indicates that the Manager endorses the Member’s goods or services. If the Bartercard intellectual property is used on any internet website, the following disclaimer must appear on the website and in any hyperlink to the website in a prominent and highly visible position:

“Bartercard Operations Aus Pty Ltd ACN 168 816 135 is not the originator or host of this website and makes no representations about the content and suitability for any purpose of the information contained in this website and gives no express or implied warranty of any kind.

Bartercard Operations Aus Pty Ltd ACN 168 816 135 disclaims (to the full extent allowable by law), all warranties with regard to the information on the website, including any advertisements, including all implied warranties as to merchantability or fitness for use. Bartercard Operations Aus Pty Ltd ACN 168 816 135 shall not be liable for any damages whatsoever including any special, indirect or consequential damages resulting from loss of use, data or profits, whether in an action in contract or negligence, arising out of or in connection with access to the website or the use or performance of information contained in it.”

Misuse of the Bartercard intellectual property is prohibited. Members shall immediately cease using the Bartercard intellectual property upon request by the Manager.

27. TAXES

27.1 Collect. Selling Members shall charge any appropriate tax applicable to the transaction (e.g. GST, excise) and collect, record and remit the taxes as required by law.

27.2 Exchange Company and Manager not Liable. Under no

circumstances will the Exchange Company and/or the Manager be responsible to pay any tax applicable (e.g. GST, excise) on behalf of any Member.

27.3 Taxable Event. A Trade may be treated as a taxable event for the purposes of federal, state and local government tax purposes and the obligation to declare, report and account for all federal, state and local government tax purposes resulting from Trades rests with the Members participating in the Trade Transaction. Each Member hereby indemnifies the Exchange Company and the Manager in respect of any loss or damage incurred by the Manager or any penalty, charge or cost which may be imposed or incurred in respect of any failure by the Member to comply with federal, state or local government tax laws in respect of any Trade in which that Member participates.

27.4 Reporting of Transactions. Members acknowledge and agree that the Exchange Company and the Manager may be required from time to time to make disclosure to the Commissioner of Taxation and to other federal, state and local government authorities in relation to Trades. The Exchange Company and the Manager are authorised to provide any information to and to co-operate in any way with such authorities, in such manner as they in their absolute discretion determine, and whether or not the Exchange Company and the Manager are obliged by law to furnish such information or to provide such co-operation. The Exchange Company and the Manager are not liable to any Member in respect of information furnished to or co-operation with such authorities, in any circumstances whatsoever.

28. LEGAL LIABILITY OF MANAGER AND EXCHANGE COMPANY

28.1 No Liability to procure New Members. Whilst the Manager shall use reasonable endeavors to procure new Members to the Trading Program, the Manager and the Exchange Company shall, under no circumstances, be liable for failure to procure new Members or retain existing Members.

28.2 No Warranty as to availability of particular Goods or Services. The Manager and the Exchange Company do not warrant the availability of any particular goods or services under the Trading Program. The Manager and the Exchange Company shall not be responsible or in any way liable if a Member cannot obtain particular goods or services from other Members or if other Members do not buy goods or services from a Member.

28.3 Compliance with Laws. All Members shall observe and comply with all applicable federal and state laws and regulations when engaging in Trades.

- 28.4 Exchange Company and Manager not Liable.** The Exchange Company and the Manager shall not be responsible or in any way liable for or in respect of any failure of the part of any Member or Members to comply with such laws.
- 28.5 Disclaimer of Liability.** The Exchange Company and the Manager make no representation or warranty either express or implied and to the fullest extent permitted by law disclaim all liability arising out of or in connection with any Trade between Members, including, without limitation, any liability for the fitness, quality, delivery date, merchantability, prices or any term of the Trade, and exclude any implied warranties on their part as to the fitness, quality or merchantability of any goods or services. In no event shall the Manager or the Exchange Company be liable to the Member for any indirect, incidental, special or consequential loss or damage, loss of use, revenues, profits, goodwill, bargain or loss of opportunities, anticipated savings, loss of or corruption of data from any cause, whether arising from breach of contract, negligence or any other tort, in equity or otherwise and whether or not even if the Manager or the Exchange Company was aware of the possibility of such loss or damage.
- 28.6 Unauthorised use of Vouchers etc.** The Exchange Company and the Manager will not be responsible for:
- (a) the use of Member's Cards, Transaction Vouchers, Gift Certificates, Gift Cards, or other authorised forms by unauthorised persons; or
 - (b) transactions that are not conducted in accordance with the Rules.
- 28.7 Member's Indemnity for Failure to Perform.** Each Member agrees to indemnify and keep indemnified the Exchange Company and the Manager and each of their directors, officers, employees, agents, independent contractors, subcontractors, and Franchisees in respect of any failure by that Member to perform its obligations under these Rules.
- 28.8 Member's Indemnity for Claim, Debt or Liability.** Each Member agrees to indemnify and hold the Exchange Company and the Manager and each of their directors, officers, employees, agents, independent contractors, subcontractors and Franchisees harmless with respect to any claim, debt, or liability whatsoever arising out of or in connection with any Trade in respect of which that Member is or purports to be the Buying Member or the Selling Member.
- 28.9 Not bound by representations of others.** The directors, officers, employees, agents, independent contractors, subcontractors and Franchisees of the Manager shall have no right to make any representation or commitment on behalf of the Exchange Company

and the Manager without written authorisation of the board of directors of each respective company or entity.

28.10 For the avoidance of doubt, the Members agree that all provisions in the Rules relating to the Manager and/or its Associates' liability, including without limitation, qualifications, exclusions and limitations apply to the Electronic Processing Services and this Agreement. Additionally, the Members acknowledge and agree that the availability and proper functioning of the Electronic Processing Services are dependent on many variables, including without limitation, usage licenses with third parties, location, mobile and internet network availability and signal strength, proper functioning of hardware, software and mobile phone and/or computer. The Manager and its Associates are not liable for any loss, claim, expense, liability or damage caused directly or indirectly howsoever by any unavailability or improper functioning of the Electronic Processing Services for any reason.

28.11 The Members agree to Indemnify and compensate the Manager and its Associates for any damages, claims, actions, loss, expense or liability incurred by such entities as a result of any breach by a Member of this Agreement. In addition, any breach of this Agreement may result in the Manager exercising its rights under the Rules that may include, without limitation, termination of membership.

29. WAIVER

29.1 No Waiver. Any failure or delay by the Exchange Company or the Manager in exercising any right shall not operate as a waiver thereof, and any single or partial exercise of a right shall not preclude any other further exercise of any right.

29.2 Cumulative Remedies. The Manager's and the Exchange Company's rights and remedies are cumulative and are not exclusive of any remedies provided by law.

30. INSOLVENCY OF MEMBER

30.1 Grant of Charge. Each Member grants to the Exchange Company security over all Trade Dollars credited to that Members Account for the amount of all unpaid Transaction, Service Fees, and other fees and charges owed to the Exchange Company from time to time.

30.2 Where Insolvent Administration. If a Member commits an act of bankruptcy, has a receiver, liquidator, provisional liquidator, administrator or controller appointed to it or any of its assets, makes any arrangement or composition with its creditors or becomes insolvent or bankrupt, then all cash Transaction/Service Fees, Directory Fees and other fees and charges shall immediately become

due and payable in full. The Exchange Company has the option in lieu of continuing as a creditor, of treating the Trade Dollar balance in the Trade Account as equal in value to the amount of cash Transaction, Service Fees and Marketing and Support Fees, Directory Fees and other fees and charges owing, and terminating the Trade Account.

31. DISSOLUTION OF TRADING PROGRAM

31.1 Events Triggering Dissolution. The Trading Program shall be dissolved in accordance with this Rule if an order is made that the Exchange Company be wound up (other than for the purpose of reconstruction or amalgamation).

31.2 Procedure on Dissolution. Upon the occurrence of an event referred to in Rule 31.1 the following procedure shall apply:

- (a) **(Inform Members)** The Manager shall inform each Member that such event has occurred and draw their attention to the requirements of these Rules;
- (b) **(Balancing Period)** Each Member and the Manager if permitted shall be entitled to continue to Trade for a period of up to a maximum of ninety (90) days (the "Balancing Period") for the purpose of bringing its Trade Account, as near as possible, to a zero balance, but no Member shall be obliged to Trade during this period;
- (c) **(Members in credit - fees payable)** Each Member having a Trade Account with a credit balance at the expiry of the Balancing Period shall immediately pay to the Exchange Company:
 - (i) *an amount in cash, being the cash equivalent of the Trade Dollar Transaction/Service Fees that would have become payable in the ordinary course of the Trading Program if that Member had entered into a Trade as a Buying Member in an amount sufficient to spend the amount of Trade Dollars standing to its credit at the expiry of the Balancing Period; plus*
 - (ii) *the cash Transaction/Service Fees that would have become payable in that event;*
- (d) **(Members in debit)** Each Member having a Trade Account with a debit balance at the expiry of the Balancing Period must immediately pay to the Exchange Company:
 - (i) *an amount in cash, being the cash equivalent of the Trade Dollar Transaction/Service Fees that would have become payable in the ordinary course of the Trading Program if that Member had entered into a Trade as a Selling Member in an amount sufficient to bring the amount of Trade Dollars standing to its Trade Account at the expiry of the Balancing Period to a*

- nil balance; plus*
- (ii) the cash Transaction/Service Fees that would have become payable in that event; plus*
 - (iii) the cash equivalent of the debit balance of the Member's Trade Account;*
- (e) (Set off against Manager's Extraordinary Member balance)**
- (i) During and at the expiry of the Balancing Period, any Trade Dollar fees payable to the Manager by the Exchange Company under these Rules or otherwise, shall be either set off against any deficit balance in the Manager's Trade Account or added to any credit balance of the Manager's Trade Account;*
 - (ii) Following the set off in Rule 31.2(e)(i), if the Manager's Trade Account still reflects a deficit balance, the Manager must convert any Member's cash indebtedness arising during the Balancing Period (in respect of Transaction/Service Fees) which are able to be charged to any Member during the Balancing Period, into a Trade Dollar fee of three times the Trade Dollar equivalent of the cash amount of such fees then outstanding, and debit the Member's Trade Account with the Trade Dollar amount and credit the Manager's Trade Account with that amount. However, such cash fees will only be converted into Trade Dollar fees to the extent that it is necessary to do so to ensure that the Manager's Trade Account is, at the expiry of Balancing Period, no longer in deficit and any cash fees that are not required to be converted under this Rule may still be recovered by the Manager in cash in accordance with Rule 31.2(i). If a Member's Trade Account is debited Trade Dollars as a result of the conversion of cash fees payable into Trade Dollar fees in accordance with this Rule, the Member is immediately released from any further liability with respect to those Trade Dollar fees charged to its Trade Account;*
 - (iii) In the event that the Manager's Trade Account is and remains in deficit and there are insufficient cash or Trade Dollar fees generated at the expiry of the Balancing Period to set off the entire amount of any deficit balance in the Manager's Trade Account, the Manager's liability with respect to the deficit in its Trade Account is extinguished in consideration of the Manager's agreement to direct the cash fees payable in accordance with Rules 31.2(c) and (d) of these Rules into the Dissolution Fund;*
 - (iv) If the Manager's Trade Account is in credit at the expiry of the steps required to be taken under Rules 31.2(a)-(e) (inclusive), then the Manager's credit balance will remain a credit*

balance of the Manager and the Manager will be eligible for any distribution made under Rule 31.2(k).

- (f) **(Strike accounts)** The Manager shall strike delinquent accounts off the Trading Program;
- (g) **(Notify Members of fees payable)** The Manager or any person appointed to do so by the Manager shall notify each Member of the amount of its debit balance and demand payment of the amount required to be paid under Rules 31.2(c) and 31.2(d);
- (h) **(Dissolution Fund)** If the Manager receives any cash monies under Rules 31.2 (c) or 31.2(d), it shall hold those cash monies in a separate bank account (“The Trading Program Dissolution Fund”) on trust subject to this Rule 31, for the Members whose Trade Accounts are in credit and for the Extraordinary Member if its Trade Account is in credit;
- (i) **(Manager to recover fees)** After the giving of notice under Rule 31.2 (g), the Manager shall use its best endeavours to recover on behalf of the Exchange Company all amounts owing under Rules 31.2 (c) and 31.2(d) and it shall be no defence for any Member from whom payment is sought to be recovered, to contend that, by reason of any conduct of the Exchange Company, the Manager or any other person, it was difficult or impossible to bring the Member’s Trade Account to a zero balance during the Balancing Period or at any previous time. In the event that such cash fees remain due and owing for 60 days, the Manager may elect to rely upon Rule 17.4 in respect of those cash fees;
- (j) **(Legal action by Manager)** The Manager shall have no obligation to take or continue any legal action on behalf of the Exchange Company in respect of any amount owing by any Member where:
 - (i) *the Manager perceives legal or practical difficulty in recovering the amount owing;*
 - (ii) *it appears to the Manager that the amount that would or may be recovered will or might be exceeded by the cost of recovery;*
 - (iii) *the Manager, in its discretion considers that there is sufficient reason to not take action.*
- (k) **(Distribution of Dissolution Fund)** The Manager will distribute the Trading Program Dissolution Fund, after deduction of his or her proper costs and outlays, to the Members whose Trade Accounts were in credit and who are in Good Standing after the expiry of the steps required to be taken under Rules 31.2(a)-(e) (inclusive) and to the Extraordinary Member if its Trade Account is in credit at either time mentioned in Rule 31.2(e)(iv), on a pro rata basis in accordance with the amounts by which those

accounts were in credit after the finalisation of the steps required to be taken under Rule 31.2(e);

- (l) **(Receiver's powers)** Any power or discretion exercisable by the Manager under this Rule may be exercised by any receiver or receiver and manager appointed to the Manager or the Exchange Company.

32. SEVERANCE. If any part or provision of these Rules should be judged or found to be void or unenforceable, it shall not affect the validity and enforceability of all other parts and provisions of these Rules and shall be severable from every other part and provision of these Rules, to the intent that these Rules shall continue in force and effect to the fullest extent possible after severance of the part or provision which is void or unenforceable.

33. JURISDICTION

33.1 Construction. These Rules are to be construed and applied in accordance with the laws of Queensland.

33.2 Submit. In the event of any dispute or any action for enforcement of rights or obligations arising out of or in connection with these Rules, the Members shall submit to the jurisdiction of the courts of competent jurisdiction in the State of Queensland.

34. AMENDMENT OF RULES. These Rules may be amended by the Manager as follows:

- (a) the Manager shall notify the Members of any amendment of the Rules as soon as is reasonably practicable after the amendment has been promulgated;
- (b) a Member may give notice of its intention to withdraw permanently from the Trading Program within seven (7) days after receiving such notification;
- (c) a Member who has not given written notice to the Manager of its intention to withdraw permanently from the Trading Program within seven (7) days after receipt of such notification or who participates in any Trade in accordance with the Trading Program following the amendment shall be deemed to have accepted the amendments and waived any objection to the amendment of the Rules. The amendment shall have effect and the Rules as amended shall constitute a contract:
- (i) between the Manager and all of the Members jointly;
 - (ii) between the Manager and each Member severally; and
 - (iii) between the Manager and each other Member.

- 35. NOTICES.** Notices given under these Rules and the Agreement shall be in writing and may be given by:
- (a) delivery; or
 - (b) prepaid post; or
 - (c) facsimile transmission; or
 - (d) email transmission;
- to the address set out in the Agreement of the party to whom the notice is given or by publication by the Manager in the Rules and Regulations within the Members Trading Portal Every notice shall be deemed to have been received and given 48 hours after the posting, or if delivered, on the date of the delivery, or if sent by facsimile transmission or email transmission in the normal course of transmission or if published in the in the Rules and Regulations Tab within the Members Trading Portal/Bartercard Online on the Bartercard website 48 hours after publication.
- 36. GLOSSARY OF TERMS.** The terms used in these Rules and the clauses in which they are defined are set out below:

TERM	RULE IN WHICH TERM IS DEFINED
Additional Cardholder	4.2
Articles	1.4
Associates	1.6
Authorisation Number	6.3
Balancing Period	31.2
Buying Member	6.1
Confidential Information	26.1
Debit Balance, Not Enough Trade	17.5
Debt Reserve Fund	23.1
Deed of Management	1.3
Direct Trade	11.5
Directory	5.2
Directory Fee	15.3
Electronic message	15.1
Electronic Processing Services	7
Exchange Company	1.2
Exchange Company Services	13.1
Extraordinary Member	1.5
Fair Trading Guidelines	18.2
Fees with Voucher Member	16.4
Franchisees	24.1
Gift Card	6.5

Gift Certificate	6.6
Credit Line	22.1
Instructions	7.6
Manager	1.3
Marketing and Support Fee	16.2
Member	1.4
Member in Good Standing	4.1
Member's Card/Bartercard Card	14.5
Members Trading Portal	6.2
Minimum Authorised Amount	9.1
Monthly Statement	10.8
Multi Trade Voucher	6.7
Other Voucher	10.5
Overpricing	11.6
Poor Service	11.8
Procedures	6.2
Prepaid Scrip Certificate	6.4
Proof of Transaction	6.1
Recoding of Trades	5.3
Rules	2.1
Sales Requirement, Debit Balance Accounts	16.5
Selling Member	5.1
Special Authorisation	8.2
Special Authorisation Number	8.2
Special Job or Order	8.1
Special Trade	8.1
Staff Account	4.4
Standby	11.3
Trade	5.1
Trade Account	5.2
Trade Dollar	3.1
Trading Program	1.1
Trading Program Dissolution Fund	31.2
Transaction/Service Fee	16.1
Transaction Voucher	6.3
Voucher Member	16.4
Voucher Splitting	11.7

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Rules of the Trading Program
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