

# The BarterPays! Rules

BarterPays! Inc.  
2587 Route 9 North, Howell, NJ 07731

## A. AGREEMENT

1. **CONTRACT.** The within Rules (formerly referred to as "Bylaws") are part of the Contract between Member and BarterPays! Inc. (hereinafter "BarterPays!"). Any transaction by Member constitutes acceptance of all terms and conditions as contained in the most recent Rules as published by BarterPays!. Said Rules apply to all existing as well as new Members.

2. **CHANGES IN RULES.** BarterPays! may change, delete, or add to all or part of the Rules without notice. All changes to the Rules will be effective upon posting on the BarterPays! website. If these Rules in any way conflict with the provision(s) in Membership Agreement, then these Rules shall control.

## B. MEMBERSHIP IN THE BARTERPAYS! NETWORK

### 1. THE PARTIES.

a. "BarterPays!" is an association of businesses desiring to exchange its goods and/or services with other business members. BarterPays! manages the network, acts as recordkeeper, and performs other related services.

b. "Member" is a legitimate business that wants to exchange its goods and/or services with other members within the exchange, and agrees to participate in the BarterPays! recordkeeping and barter services.

2. **SALES.** Member-Seller (hereinafter "Seller") agrees to sell products/services to Member-Buyer (hereinafter "Buyer") for BarterPays! Barter Points/Dollars (hereinafter "Barter Dollars") at Seller's prevailing or normally advertised price/fee and on the same priority given to other customers/clients. Seller is not obligated to accept "coupon" prices/fees, but agrees not to charge in excess of Member's everyday price/fee for its products/services.

However, Member may charge in excess of its everyday price for its products/services when Member's profit margin for such products over and above its cost of goods sold is less than thirty-five percent (35%); in such cases the excess price charged may not exceed that which would produce a thirty-five percent (35%) profit margin over and above Member's cost of goods sold. As used herein, "cost of goods sold" shall be defined as those costs which are exclusive of fixed operating and labor costs.

a. **LIMITS/RESTRICTIONS.** Any limit(s) and/or restriction(s) on products/services offered by Member, including but not limited to type of products/services offered, must be approved in writing by BarterPays! in advance of Member imposing such limit(s) and/or restrictions. Under no circumstances may Member limit and/or restrict its offering of products/services while Member's account has a negative trade balance or when cash fees are more than thirty (30) days past due. Any Member which chooses to change or limit the

products/services it offers may be subject to additional cash commission(s) for certain products (See Section C.3.c).

b. **NO CASH TRANSACTIONS.** Member agrees to sell its products/services at 100% Barter Dollars. Cash transactions, except as provided in Section B.2.c. and B.2.e. below, are not permitted. As used herein, the term "cash" refers to U.S. Dollars, and such term is used to distinguish between U.S. Dollars and Barter Dollars. "Cash" also refers to payments by cash/coin, check, money order, credit card payments, etc.

Unreported direct trading is prohibited. The term "direct trading" refers to members who buy and/or sell on a one-to-one basis without authorizing transactions via the BarterPays! accounting system, or who switch record-keeping of transaction(s) to an alternate barter system, barter currency, or barter exchange.

### c. SINGLE TRANSACTIONS OVER \$10,000.00.

Buyer and Seller may negotiate part-cash for transactions above \$10,000.00 provided that for each such transaction:

- i) there be a minimum payment of \$10,000.00 Barter Dollars; and
- ii) the Barter Dollar portion must be at least fifty percent (50%) of the transaction; and
- iii) the account of Seller has a minimum positive trade balance in the amount of \$10,000.00; and
- iv) the full amount of the transaction (including the cash portion) is disclosed to BarterPays!; and
- v) the Seller pays the sales commission on the cash portion; and
- vi) the transaction has been approved in writing in advance by BarterPays!.

**ALL PART-CASH TRANSACTIONS ARE STRICTLY PROHIBITED WITHOUT THE PERMISSION OF BARTERPAYS!.**

d. **SPECIAL CIRCUMSTANCES.** Seller agrees not to accept cash under any circumstance if Seller has refused to accept a BarterPays! transaction. Buyer shall not, under any circumstance, pay cash to Seller in any transaction if Buyer has refused to tender payment with Barter Dollars. Seller and/or Buyer shall immediately notify BarterPays! of any such situations to allow BarterPays! to redirect the Buyer to another Seller.

e. **PERMITTED CASH TRANSACTIONS.** Seller may accept payment in cash from Buyer if barter-dollar authorization for Buyer has been declined by BarterPays!. Under no other circumstances may Seller accept cash from another member, except for payment of sales tax, gratuities, insurance, tolls, and as may be permitted in Section B.2.c.

f. **GOING "ON HOLD."** Members with positive trade balances in excess of \$10,000.00 may become inactive and may be permitted to temporarily decline to sell products/services in the BarterPays! exchange in order to "spend down" Member's positive trade balance. Active trading status must resume upon Member's trade balance going below \$10,000.00 Barter Dollars.

- i) Member must notify BarterPays! via e-mail or certified mail if Member wishes to be put "on hold." E-mail shall be considered received only when such e-mail is acknowledged by BarterPays! via return e-mail. Any Member who refuses to accept a BarterPays! transaction without first going "on hold" pursuant to these Rules shall incur a \$100.00 cash fee for each such refusal.
- ii) Any Member "on hold" shall be automatically reclassified as a "Standard Member" (See Section C.3.c.i).
- iii) A Member may go "on hold" only if Member has a positive trade balance above \$10,000.00.
- iv) No Member whose cash fees and commissions (See Section C) are more than thirty (30) days past due may go "on hold."
- v) A Member "on hold" will be charged fees in US funds after ninety (90) days of "on hold" status.
- vi) When "on hold," Member's credit line, if any, shall be suspended and may be reinstated only at the sole discretion of BarterPays!.
- vii) A Member "on hold" for more than twelve (12) months may have its membership terminated for inactivity, regardless of its trade balance, at the sole discretion of BarterPays!.

3. **TRADING ASSISTANCE.** BarterPays! will assist Members to trade among themselves by means of: assistance of trade brokers in facilitating trades, when possible; periodic mailings offering flyer insertions; periodic gatherings of Members to exchange and share information; and the BarterPays! website. It is up to the Member's initiative to derive benefits from these services.

The Trading Assistance described above is intended for the use of BarterPays! members to facilitate trading in the BarterPays! Network. Trading Assistance may not be used to solicit BarterPays! Members for other business ventures outside the BarterPays! Network. All other uses of Trading Assistance provided by or obtained from BarterPays! including but not limited to selling, giving, trading, exchanging, furnishing, granting, assigning, or otherwise imparting any names, addresses, or any other information to any other barter exchange, group, partnership, corporation, limited liability company, organization, or other entity is strictly prohibited without the express written permission of BarterPays!.

The responsibility for the conduct of a transaction is exclusively that of the buying and selling members. BarterPays! will use its best efforts to record trades accurately, to administer these Rules in accordance with their terms, and to assist in the sale of Member's goods and services to other BarterPays! Members. However, Member acknowledges that the sole principals in any barter transaction are the buying and selling Members involved, that barter transactions are entered into voluntarily, and that BarterPays! is not the guarantor of any barter transaction. BarterPays! makes no express or implied warranties as to the quality of the goods or services of the BarterPays! Network members.

#### 4. **AVAILABILITY OF PRODUCTS AND SERVICES.**

- a. BarterPays! will use its best efforts to solicit businesses having products and/or services to satisfy the needs of its members. However, BarterPays! shall not be responsible or liable to Member if Member cannot or does not buy specific products and/or services from other Member(s).
- b. No representation is made by BarterPays! that the products and/or services are available at all times, nor does BarterPays! guarantee any Member's sales volume or guarantee customers to Members.
- c. BarterPays! shall have the sole, exclusive, and ultimate authority to determine which Member(s) may purchase from other Member(s) products and/or services which may be in limited supply and/or great demand, based upon, but not limited to, such criteria as: Member's current trade balance, and prior performance with other Members of the BarterPays! Network. BarterPays! will charge a ten percent (10%) cash surcharge for purchasing from such members without referral or for excessive consumption (See Section C.3.c.ii). Consult with BarterPays! for clarification.

C. **FEES AND COMMISSIONS** BarterPays! reserves the right to adjust the amount of Fees and Commissions at any time.

1. **MONTHLY MAINTENANCE FEE.** Member shall pay the prevailing monthly maintenance fee for each month that Member has an account with BarterPays!. Effective January 1, 2008 the monthly maintenance fees for members in current standing shall be as follows:

- a. Members: \$14.00 US plus \$10 BP
- b. Members with "Media Agreement": \$30.00 BP;
- c. Members with "Gold Card Agreement": \$7.00 US plus \$10.00 BP.

2. **DISBURSEMENTS.** BarterPays! reserves the right to assess cash surcharge(s) for travel search fees, shipping/handling, duplicate statements and/or ledgers, replacement Member handbook and cards, and other disbursements.

3. **SALES COMMISSION.** Member agrees to pay a commission in cash to BarterPays! for business transactions with other member(s) of the BarterPays! Network. BarterPays! shall be entitled to a full commission on any and all transactions involving returns, exchanges, and/or cancelled orders.

- a. Member agrees to pay a commission as the Buyer on the portion of any transaction amount paid with Barter Dollars.
- b. Member agrees to pay a commission as the Seller:
  - on the portion of any transaction amount paid with cash, including but not limited to transaction involving cash insurance payments to Seller;
  - on the portion of any transaction amount paid with other forms of currency, including but not limited to other barter currencies and direct barter transactions brokered by BarterPays!;

BarterPays! Inc. shall be entitled to a commission as

indicated in subsections 3a and 3b above for the life of Members' business relationship with one another, whether or not still a member of BarterPays!.

Any Member who trades directly with another Member (see Section B.2.b) or who uses another barter exchange or similar organization to account for a transaction connected or originated by BarterPays! Inc. shall be responsible to pay a commission to BarterPays!, Inc. in addition to any fees due to such other barter exchange or organization. Such direct trade or transaction will be recorded as both a sale and a purchase for both the buyer and seller. In addition, a penalty in the amount of \$500.00 US will be assessed. Any Member which disputes said commission and/or penalty shall provide their billing/account records from all barter exchanges in which Member trades.

Any Member who uses BarterPays! Trading Assistance (see Section B.3) or contacts to recommend or refer Members of BarterPays! to other barter exchanges or similar organizations shall be assessed a penalty in the amount of \$500.00 US per infraction and possible termination of Membership.

Seller must report to BarterPays! all amounts received in any transaction with another Member brokered by BarterPays!, including but not limited to: Barter Dollars, cash, direct trades, and other barter currencies.

Cash commission is not payable for cash received for sales tax, gratuities, and tolls/parking fees.

**c. SURCHARGES.**

i) **STANDARD MEMBERSHIP.** BarterPays! shall assess an additional ten percent (10%) cash commission for certain high demand products/services, low-margin products, construction (including labor and materials), and retail store purchases. Said additional commission shall be paid by: a) those Members which sell certain services; b) professionals; c) advertising firms; and d) those members which are "on hold" or which limit their products/services, e.g. those members which do not barter all of their products/services or do not do so at all times. Consult with BarterPays! for clarification.

ii) **ALL MEMBERSHIPS.** All Members shall pay an additional five percent (5%) cash commission for products purchased through the BarterPays! TradeMart and from other barter exchanges and trading partners outside of the Membership. BarterPays! reserves the right to charge a ten percent (10%) surcharge for excessive consumption of high-demand products in the Network. Consult with BarterPays! for clarification.

**4. COLLECTION OF FEES AND COMMISSIONS.**

a. Cash fees and commissions are due and payable upon receipt of monthly Statement, except for commissions on purchases of \$500.00 or higher, where ten percent (10%) of purchase price shall be collected at point of purchase or upon performance of service. Actual commission amount shall be adjusted on Member's monthly Statement, where applicable.

Members who, as determined solely by BarterPays!, are continually late in paying fees and commissions, may be required to pay all fees and commissions at the time of purchase, regardless of the amount of the transaction. A late charge will be assessed each month for past due cash fee balances exceeding thirty (30) days from date of Statement, in the amount of \$10.00 cash or one-and-one-half percent (1-1/2%) of cash fee balance amount, whichever is higher.

b. BarterPays! reserves the right to charge monthly fees in cash rather than Barter Dollars for any Member account which has fees more than sixty (60) days past due or has exceeded its credit line.

c. **RETURNED CHECKS.** Any checks returned by a Member's bank for any reason will be subject to a minimum cash fee of \$25.00. Replacement check or payment must be in the form of cashier's check, certified check, money order or cash/coin.

d. BarterPays! shall have the right to withhold release of Member's Barter Dollars when cash fees are thirty (30) days or more past due.

e. Negative trade balance (barter debt), if any, shall be due and payable in cash to BarterPays! when:

i) cash fees, commissions, and other charges are ninety (90) days or more past due; or

ii) where BarterPays! determines, in its sole discretion, that Member is in violation of Membership Agreement or any Rules set forth by BarterPays!; or

iii) Member's account is inactive for six (6) months or more.

f. Member agrees to pay all costs of collection, which shall equal twenty percent (20%) of all amounts due, in addition but not limited to attorney's fees and the maximum interest as permitted by law in the event Member defaults in any obligation to BarterPays! or other members.

**D. BARTER TRANSACTIONS**

**1. TRADE PROCEDURES.**

a. **PAYING WITH A BARTERPAYS! ACCOUNT CARD.** BarterPays! will guarantee the crediting of Barter Dollars when the following procedures are followed:

i) For all transactions, Buyer shall contact BarterPays! for referral of Seller. Buyer must identify himself/herself to Seller as a BarterPays! Member prior to scheduling or entering premises of Seller, and Buyer agrees to follow any other trading procedures Seller and/or BarterPays! broker has specified. Contact BarterPays! for particular Seller's requirements.

Buyer shall have the sole discretion whether to purchase the goods and/or services from Seller, and Member agrees that BarterPays! shall have no liability whatsoever to Buyer or Seller arising from the transaction or referral thereof.

ii) For all transactions, Seller shall use the 24-hour automatic authorization system or shall contact BarterPays! by telephone during regular business hours to confirm that Buyer has sufficient Barter Dollars available in Buyer's

account and to obtain authorization to conduct transaction with Buyer.

iii) Buyer shall present its BarterPays! account card to Seller at time of purchase. Seller shall record the authorization number given by BarterPays! on the BarterPays! transaction form. BarterPays! reserves the right to void any authorized transaction in which a transaction form has not been signed by an authorized user of Buyer's account and/or submitted to BarterPays! in a timely manner.

iv) Buyer agrees to pay a sales commission to BarterPays!, except as provided in Section C.3 (Fees and Commissions) or elsewhere in these Rules.

v) Seller agrees to mail to BarterPays! required sales documentation within fourteen (14) days of sale of product or rendering of services. Failure of Seller to provide said documentation for a transaction to BarterPays! shall not relieve Buyer of its obligation to pay for the goods and/or services purchased by Buyer and to pay to BarterPays! any commission(s) due on said transaction, regardless of the amount of time between the date of the transaction and the date upon which said transaction appears on Buyer's BarterPays! account statement.

vi) Buyer agrees to pay taxes and gratuities, if any, in cash, directly to Seller at time of purchase, unless other arrangements are agreed to by the parties.

vii) Member must deposit all Barter Dollars into Member's own account. Any transfer or withdrawal of Barter Dollars shall be considered a separate transaction, and subject to sales commission.

**b. PAYING WITH BARTERPAYS! CERTIFICATE(S) AND DEBIT CARDS.**

i) Buyer and/or User of BarterPays! Certificate(s) and/or Debit Card(s) agree to abide by the rules and limitations printed on Certificate(s) and/or Debit Card(s) when using same for payment in a transaction with other BarterPays! members. User agrees to pay any and all taxes, tips, and gratuities in cash to Seller at time of redemption of Certificate(s) and/or Debit Card(s). User will not receive any cash back for overpayment with Certificate(s).

ii) Seller agrees to accept all Certificate(s) previously issued, providing Certificate is used according to the rules printed on its face.

iii) BarterPays! shall not be responsible for any Certificate(s) not accepted or redeemed within sixty (60) days of the date of issue, or for the loss or theft of any Certificate or Debit Card.

c. **ESCROW ACCOUNTS.** BarterPays! reserves the right to place Member/Buyer's deposits, fees, costs, and amounts charged by a Member/Seller in a transaction for work not completed or goods not yet delivered or long-term transactions into an escrow account. BarterPays! shall transfer the escrowed funds to Seller's BarterPays! account when work is completed, goods are delivered, in increments at the sole discretion of BarterPays! Inc. This provision shall

apply to advertising, construction projects, and merchandise ordered but not yet received, or any other situation deemed appropriate by BarterPays!.

d. BarterPays! reserves the right to reject any documentation which does not conform to the required procedures.

**2. PROBLEM TRANSACTIONS.**

a. Transaction disputes are only between the Buyer and Seller, and BarterPays! accepts no responsibility other than recording the transaction in the ordinary course of business. BarterPays! is not responsible for and Member agrees to hold BarterPays! harmless and releases BarterPays! from any and all liability including but not limited to the following:

i) Alleged product or service defects; professional malpractice; negligence; and/or any claims of any nature whatsoever arising from the sale and/or purchase of goods and/or services between members.

ii) Disputes and non-payments arising from BarterPays! purchase and sale transactions between members.

iii) Unauthorized use of Member's account/account card.

iv) Altered, illegible or incorrect information on BarterPays! documentation.

v) Accounting problems due to mail delays or loss, or other situations beyond the control of BarterPays!.

**b. DISCLAIMER OF WARRANTY AND LIABILITY.**

BarterPays! is not a party to, and is not responsible for transactions between members. BarterPays! makes no representation of warranty, either express or implied, and disclaims all liability as to the fitness, quality, delivery date, merchantability, prices or any term of any transaction. Member does hereby indemnify and hold BarterPays! harmless with respect to any claim, debt, or liability whatsoever, arising out of any transaction wherein Member is a Buyer or Seller. Member acknowledges that any transaction in which it participates will be on a voluntary basis.

c. Where transaction disputes arise between members BarterPays! reserves the right to place any portion of disputed transaction amount(s) into an escrow fund pursuant to procedures established by BarterPays!.

d. Accounting statements are considered accurate as printed, unless Member notifies BarterPays! in writing of discrepancies within 30 days of Statement date.

**3. VIOLATION OF RULES.** BarterPays! has the right, but not the obligation to inquire into complaints of Rule violations by a Member. Violations of these Rules may result in termination of Member and/or immediate adjustment to the transactions involved. If Member fails to buy from and sell to other members in accordance with these Rules, Member will be in material breach of these Rules. If Member violates any term of the currently effective Rules of the Membership Agreement, BarterPays! may immediately terminate Member's account or may freeze all activity in the account without notice until such time as BarterPays!, in its sole discretion, reinstates the Member or terminates Member's

account. See Section F.2, Termination.

#### 4. TAXES.

a. Seller shall charge the appropriate sales and excise taxes and collect and record these as required by law. Under no circumstances is BarterPays! responsible to pay any sales, excise, use or other such tax on behalf of any member.

b. Member is responsible for including barter sales as part of gross income reported to respective State and Federal Agencies. Member should consult with an accountant or tax advisor as to how barter sales and purchases will affect Member's net income.

c. BarterPays! is required to report all BarterPays! sales to the I.R.S.

d. It is the Member's responsibility to notify BarterPays! of any changes of legal name, Federal I.D., or Social Security number, prior to December 31 in year of change in order for BarterPays! to correctly report sales to the I.R.S. Member must provide to BarterPays! updated W-9 and execute a new Membership Agreement upon any change in ownership of Member. BarterPays! reserves the right to obtain updated tax and ownership information at any time.

#### E. CREDIT LINE

A "credit line" may be assigned to Member by BarterPays!. Said credit line constitutes a loan from BarterPays! to Member.

1. **ADJUSTMENT OF CREDIT LINE.** BarterPays! reserves the right, in its sole discretion, to regularly adjust Member's credit line based upon but not limited to the following: i) aggregate level of transactions within the BarterPays! exchange; ii) availability of Member's product/service; iii) fee and commission payment history of Member; iv) number of other barter exchanges Member belongs to; and v) general service and performance record.

2. **PERSONAL GUARANTY.** BarterPays! may require Member to execute personal guaranty for credit line.

2. **NEGATIVE TRADE BALANCE.** If a Member maintains a negative barter trade balance for more than twelve (12) months and desires to remain active in the BarterPays! Network, Member shall pay ten percent (10%) of its negative trade balance in US funds, which payment shall be credited against Member's barter trade balance. If Member does not comply with this provision, BarterPays! shall terminate Member's account and the entire negative barter trade balance shall be due in U.S. funds.

4. **LOANS.** BarterPays! may, upon request of Member, offer Member a loan of additional credit upon terms acceptable to BarterPays!. Any loan not repaid within twelve (12) months from date of loan shall be payable in cash upon demand of BarterPays!.

5. **CREDIT LINE DEFICIT.** Member agrees that any deficit over and above Member's credit line, as may be adjusted by BarterPays!, shall be payable in cash upon demand of BarterPays!.

#### F. TERMINATION OF MEMBERSHIP; EFFECT OF TERMINATION

##### 1. REQUEST FOR TERMINATION BY MEMBER.

Member may request to terminate its membership at any time by notifying BarterPays! in writing, and delivering said request via certified mail, return receipt requested. All cash fees, negative trade balances, and/or commissions on positive trade balances shall become immediately due and payable in cash to BarterPays!, and payment of same must accompany Member's request for termination.

2. **TERMINATION.** BarterPays! reserves the right to terminate membership at any time pursuant to or upon Member's violation of these Rules, or for any reason whatsoever where BarterPays! determines in its sole discretion that any or all of the following apply:

a. Member has conducted its business transactions in an inappropriate and/or unprofessional and/or unethical manner and/or engages in overpricing and/or unreported direct trading;

b. Member fails to report sales with any other Member for any reason whatsoever;

c. Member unreasonably has refused to service other BarterPays! members or does not do so in a timely or appropriate manner;

d. Member is in violation of any Local, State or Federal law and/or regulation;

e. Member has outstanding cash fees and/or commissions owed to BarterPays! more than ninety (90) days past due;

f. Member's account has been inactive or Member has participated in a low level of trade activity as determined solely and exclusively by BarterPays!;

g. Member's business has changed ownership. New owner may re-establish account by entering into new Membership Agreement with BarterPays!, provided that all fees, commissions, and negative trade balance, if any, from prior owner's account are paid in full in cash;

h. Member's association with BarterPays! is not beneficial to the BarterPays! network, as determined solely and exclusively by BarterPays!.

Member agrees that BarterPays! shall not be held liable for any such termination, or for any and all incidental and/or consequential damages which may result therefrom.

##### 3. EFFECT OF TERMINATION.

a. All transaction fees, monthly dues, and late fees will continue to accrue until paid in full.

b. Upon termination of membership, all negative trade balances (barter debt) shall be immediately due and payable in cash by Member to BarterPays!.

c. No cash refunds will be given by BarterPays! to Member for positive trade balance under any circumstances. BarterPays! shall forward BarterPays! DinersCard (or Standard DebitCard for accounts with over \$1500.00) to terminated Member in the amount of positive trade balance,

if any, after cash fees and commission on such positive trade balance has been paid in full by Member.

d. All member cards must be returned to BarterPays!.

#### G. OTHER PROVISIONS

1. **LEGAL CONSTRUCTION.** In case any one or more of the provisions contained in the Membership Agreement or the Rules of the BarterPays! Network shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Membership Agreement or Rules of the BarterPays! Network, and the Membership Agreement or Rules of the BarterPays! Network shall be construed as if the invalid, illegal, or unenforceable provision had never been included.

2. **SECURITY INTEREST, INSOLVENCY.** Member grants BarterPays! a security interest in all Barter Dollars to be credited to Member's account for the amount of all unpaid cash fees and/or commissions. Upon filing of petition under the U.S. Bankruptcy Code, or an Assignment for the Benefit of Creditors, no trade shall be allowed until all cash fees due BarterPays! have been paid in full. If the petition under Chapter 7 of the Bankruptcy Code is filed by or against Member, or if the plan filed pursuant to either Chapters 11 or 13 does not provide for the full payment of all cash fees and/or commissions due BarterPays!, BarterPays! shall have the option in lieu of filing as a creditor of treating the Barter Dollar balance as equal in value to the amount of cash fees and/or commissions owing, and terminating the account; provided, however that if BarterPays! does receive all of its cash fees in full, BarterPays! shall recredit the Barter Dollars to the Member's account.

3. **LEGAL REQUIREMENTS.** Member shall abide by applicable Federal, State and Local laws and regulations pertaining to any transaction, and BarterPays! shall not be responsible for any failure on the part of Member to comply with any laws. Member agrees not to hold BarterPays! liable for any action BarterPays! takes to comply with applicable laws or regulations.

4. **WAIVER OF RIGHTS.** BarterPays! failure or delay in exercising any right will not operate as a waiver thereof, any single or partial exercise of a right will not preclude any other or further exercise of any right. BarterPays! remedies are cumulative and are not exclusive of any remedies provided by law.

5. **APPLICABLE LAW.** The Membership Agreement

and the Rules of the BarterPays! Network shall be construed under, and in accordance with, the laws of the State of New Jersey.

6. **VENUE.** Any action brought by any party to this Agreement shall be filed, and venue shall lie, in the courts of the County of Monmouth, State of New Jersey.

7. **ATTORNEY'S FEES.** In the event of any default in the performance of the obligations of Member under the terms of the Membership Agreement or the Rules of the BarterPays! Network, Member shall be required to pay any legal costs incurred by BarterPays! in the enforcement of any provision of Membership Agreement or the Rules of the BarterPays! Network, including costs of collection, which shall equal twenty percent (20%) of all amounts due, and reasonable attorney's fees, in addition to any other relief to which BarterPays!, Inc. may be entitled.

8. **NOTICES.** Notices required to be given to either party shall be given personally or by registered or certified mail, postage prepaid, return receipt requested to the party at its address as set forth in the Membership Agreement. If notice is given by mail, it shall be deemed delivered as of the date of deposit in the United States mail. Either party may change the address to which such notices are to be sent by giving the other party written notice in the manner provided in this paragraph.

9. **ENTIRE AGREEMENT.** The Membership Agreement and the Rules of Membership contain the entire agreement between the parties relating to the BarterPays! Network. Any oral representations or modifications concerning same made by either party before or after the execution of the Membership Agreement or Rules of Membership shall be of no force and effect. Any amendments must be in writing and signed by both parties.

10. **HOLD-HARMLESS CLAUSE.** Member agrees to indemnify and hold BarterPays! harmless against any and all claims, demands, damages, costs, and expenses, including reasonable attorney's fees for the defense of such claims and demands, arising from the conduct of Member's business any transaction in which Member chooses to participate.

11. **PARTIES BOUND.** The Membership Agreement and the Rules of the BarterPays! Network shall be binding upon, and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

Eff. 10/29/07