

The parties signed up in the Vendor Application Form, agree:

1 References to the parties and other defined terms

- (a) In this agreement:
- (i) "we", "us" and "our" means The Ipswich Chamber of Commerce & Industry; and
 - (ii) "you" and "your" means the vendor specified in item 1 of the Agreement Details. A vendor is considered to be a retailer or service provider.
- (b) Other capitalised terms used in this agreement have the meaning given in clause 22.
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2 Term of this agreement

- (a) This agreement commences on the Commencement Date, and unless otherwise terminated continues for the Initial Term.
- (b) After the Initial Term, this agreement will automatically be renewed for successive terms of 1 year each (each a **Renewal Term**), unless either party notifies the other that they do not wish to renew this agreement at least 30 days before the commencement of a Renewal Term in which case this agreement will expire at the end of the then-current term.
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3 Our Vendor Policy

It is important that our Website maintains a consistent look and feel & offers customers consistency with their purchasing and return options. We have developed a policy document which sets out further details in relation to such matters, including your Mini-site and the way in which Products will be made available for purchase through our Website, the ordering and payment process, shipping arrangements, the fulfilment process and returns and exchanges. A copy of our current Vendor Policy is set out in Schedule 1. We will notify you of any updates to our Vendor Policy, which will take effect from when we notify you. You agree to comply with our Vendor Policy.

4 Your Mini-Site

4.1 Mini-site

- (a) During the Term we will provide you with a mini-site which forms a part of our Website, which will enable you to enter details regarding the Products that may be purchased from you through the Website (your **Mini-site**), or advertise services and/or offers that your business provides.
- (b) You must complete the set-up of your Mini-site, and list a product or service through your Mini-site, within 2 weeks of the Commencement Date.

4.2 Further details set out in our Vendor Policy

Our Vendor Policy sets out further details regarding the information to be included in your Mini-Site,

4.3 General Terms and Conditions

- (a) We have prepared default General Terms and Conditions which appear in the appendix below and you must adopt those default General Terms and Conditions as your own Vendor Terms
 - (i) we may modify those default General Terms and Conditions from time to time. We will notify you before doing so; and
 - (ii) you acknowledge that we are not responsible for providing you with any legal advice in relation to those default General Terms and Conditions, and you must obtain your own legal advice to determine whether those default General Terms and Conditions are suitable for you and your Products.
- (b) We will provide an ordering mechanism on our Website which allows customers to purchase your Products. As part of the ordering process, we will ask customers to confirm by ticking a “check box” that they have read and agree to the General Terms and Conditions.

4.4 The Vendor Administration Section

- (a) You may edit the information included on your Mini-site through our **Vendor Administration Section**.
- (b) You must provide the necessary computer hardware and software and internet services to access and use the Vendor Administration Section, the technical requirements for which are described in our Vendor Policy.

4.5 User name and password for the Vendor Administration Section

- (a) We will provide you with user names and passwords to enable you to access the Vendor Administration Section. You must keep such user names and passwords confidential, and not disclose them to any third party.
- (b) You must notify us as soon as possible if you suspect there has been any improper use of any of your user names and passwords, in which case we will re-issue you with new user names and passwords. We may also re-issue your user names and passwords periodically or if we wish to do so for security reasons.
- (c) You are responsible for any access or use of the Mini-Site that is made with your user names and passwords, except after you have notified us of any suspected improper use of them under paragraph (b).

5 Agency

- (a) While we operate the Website, all Products are available for purchase from you and are sold by you. We do not purchase the Products from you.
- (b) We sell the Products as your agent and not on our own behalf. This includes making your Products available for purchase, taking Orders and collecting payment for Product purchases. You appoint us as your agent for such purposes.
- (c) We are not a party to, and have no obligations under, any contract that may be formed between you and a customer in relation to any Product. You agree to indemnify and hold us harmless against any Losses or Claims that we may suffer or incur in relation to the Products, an Order or any such contract, except to the extent such Losses or Claims arise from our breach of this agreement.

6 Resolving defects

- (a) If you have difficulties accessing or using the Mini-Site, or become aware of a defect in the Mini-Site or any other part of our Website, you may contact us as described in our Vendor Policy.
- (b) We will use all reasonable efforts to:
 - (i) resolve your difficulties in accessing or using the Mini-Site; and
 - (ii) restore any defects in the Website, that you notify us of.
- (c) You acknowledge, however, that it is not feasible for us to ensure that the Website is available at all times or that it is error-free. While we have systems to back-up information on our Website, you should retain a copy of Your Information so that it be can uploaded to your Mini-site again if necessary.

7 Restrictions

During the Term, you must:

- (a) ensure that the prices of the Products available for purchase through your Mini-site are at least the same as or lower than the prices those Products are available for purchase through Your Website, unless otherwise agreed to in writing by ShopIpswich; and
- (b) not do anything that adversely affects the reputation or goodwill of us or our Website.

8 Our website

- (a) We retain the right to:
 - (i) determine which other Vendors we choose to enter into agreements with. Other vendors on our Website may make available for purchase the same or similar products as you; and
 - (ii) determine and change the manner in which the Website is presented, including:
 - (A) the Website content and its arrangement (including the categorisation of products and the order in which products and vendors are presented on the Website);
 - (B) the Website features and functionality;
 - (C) any advertising or links on the Website; and
 - (D) the look and feel of the Website.
- (b) If we make any changes to the Website during the Term that we consider are significant, we will endeavour to provide you with reasonable notice before making them.

9 Fees

9.1 Payments for Product purchases

- (a) We will collect the payment for each Order on your behalf, using the payment mechanisms which we make available from time to time on the Website. If we are charged any fees by a Payment Provider in collecting those payments, we will bear those costs. We will remit such

payments to you weekly in arrears, having deducted the amount of our Commission on those payments, which you must pay to us. Our Commission will be calculated on the purchase price for the Product exclusive of any GST component of that purchase price or any associated shipping costs. We will provide you with an invoice for our Commission on or about the time that we remit the associated payments to you.

- (b) Where a Product is returned for a refund or we otherwise cancel an order in accordance with our General Terms and Conditions, upon receiving confirmation from you that you have received the returned Product (as described in our Vendor Policy) we will process the refund (excluding any shipping costs, which are not refunded) and remit it to the relevant customer on your behalf. If we are charged any fees by a Payment Provider in making such a refund, we will bear those costs. In such circumstances, the Commission is not payable by you to us, and if:
 - (i) we have already remitted the associated payment for the Product to you, you must repay the amount that we remitted to you back to us. We may deduct that amount from the next payment we make to you, or include that amount on the next invoice provided under paragraph (a) in which case you must pay such amount within 30 days of receipt of our invoice. We will not refund to you the amount of the Commission, as an equivalent amount will have been paid by us as part of the refund; or
 - (ii) we have not already remitted the associated payment for the Product to you, we will not do so given the payment is to be refunded.
- (c) Where a payment for a Product is disputed, we will notify you of the dispute and provide you with a reasonable opportunity to demonstrate why the payment should not be reversed or charged-back. You agree to provide us with any reasonable information, assistance and co-operation in relation to any such dispute, including by any timeframes that are imposed on us by a Payment Provider. If a Payment Provider reverses or charges-back the payment, you will pay us the amount of any fees charged by the Payment Provider in making the reversal or charge-back (**Charge-back Fees**). In such circumstances, the Commission is not payable by you to us, and if:
 - (i) we have already remitted the associated payment for the Product to you, you must repay the amount that we remitted to you back to us. We may deduct that amount and any Charge-Back Fees from the next payment we make to you, or include that amount and any Charge-Back Fees on the next invoice provided under paragraph (a) in which case you must pay such amount within 30 days of receipt of our invoice. We will not refund to you the amount of the Commission, as an equivalent amount will have been paid by us as part of the reversal or charge-back; or
 - (ii) we have not already remitted the associated payment for the Product to you, we will not do so given the payment is to be reversed or charged-back (as the case may be). We may deduct any Charge-Back Fees from the next payment we make to you, or include any Charge-Back Fees on the next invoice provided under paragraph (a) in which case you must pay such amount within 30 days of receipt of our invoice.

9.2 Method of payment

All payments under this agreement are to be made by either electronic funds transfer to a bank account in Australia, or as a Paypal money transfer as nominated by the recipient, which in your case will be as described in Item 6 and item 7 of the Agreement Details unless you notify us otherwise,

9.3 Set off

We may reduce the amounts payable by us to you under this agreement by any amount which is payable by you to us.

10 Taxes

10.1 Taxes other than GST

Each party must bear any taxes that are imposed on them in relation to this agreement or its subject matter, other than GST which is dealt with in clause 10.2.

10.2 GST

- (a) In this clause 10.2, a term or expression starting with a capital letter which is defined in the GST Law but not defined in this agreement has the same meaning as in the GST Law.
 - (b) Each consideration or payment obligation in this agreement is exclusive of GST.
 - (c) If GST is or becomes payable on a Supply made under or in connection with this agreement, an additional amount is payable by the party providing consideration for the Supply equal to the amount of GST payable on that Supply as calculated by the party making the Supply in accordance with the GST Law.
 - (d) Subject to paragraph (e), the Additional Amount payable under paragraph (c) is payable at the same time and in the same manner as the Consideration for the Supply.
 - (e) Each invoice delivered by a party under this agreement must comply with all the requirements for a Tax Invoice under the GST Law.
 - (f) Unless otherwise stated in this agreement, the following principles apply when determining the amount of a payment under this agreement:
 - (i) if a party is entitled under this agreement to be reimbursed or indemnified by the other party for a Loss or Claim incurred in connection with this agreement, the reimbursement or indemnity payment must not include any GST component of the Loss or Claim for which an Input Tax Credit may be claimed; and
 - (ii) if a party sets off an amount under this agreement, the same principles apply to calculate the amount to be set-off, as if the amount had been paid in accordance with paragraph (i).
 - (g) If an Adjustment Event occurs, the parties must do all things necessary to make sure that the Adjustment Event may be appropriately recognised, including the issue of an Adjustment Note.
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11 Applicable laws and Your Information

- (a) You must comply with any applicable laws in relation to the performance of your obligations under this agreement, your Products, the purchase of your Products and your dealings with any customers.
- (b) You must ensure that Your Information:
 - (i) is accurate, complete, up-to-date and not misleading or deceptive;
 - (ii) does not contain any Viruses;
 - (iii) complies with all applicable laws;
 - (iv) is not:
 - (A) defamatory or in contempt of any legal or other proceedings;

- (B) indecent, obscene, vulgar, pornographic, offensive or of doubtful propriety;
 - (C) of a menacing character;
 - (D) discriminatory to any group of persons including groups defined by reference to colour, race, sex, origin, nationality or ethnic or national origins;
 - (E) offensive or denouncing of political or religious beliefs; or
 - (F) likely to cause annoyance or anxiety.
- (c) We may immediately remove any Products or any of Your Information from the Website if we believe that they:
- (i) fail to comply with this agreement; or
 - (ii) do not match our desired look and feel for our Website, as described in paragraph A of the background section of this agreement.

If we do so, we will notify you as soon as reasonably practicable.

12 Intellectual property rights

12.1 Licence of Your Information

- (a) You grant us a world-wide, non-exclusive, royalty-free licence to use, reproduce and communicate to the public Your Information:
- (i) during the Term:
 - (A) as part of our Website (which may be outside your Mini-site, such as in response to search requests or when displaying a list of products available through our Website by product category); and
 - (B) outside of our Website for promotional purposes relating to us or our Website, in any medium; and
 - (ii) after the Term, for archival and record-keeping purposes only.
- (b) We may sublicense any the rights granted to us under paragraph (a) to any third party who we engage to provide goods or services to us, such as a website developer or internet host.
- (c) You acknowledge that:
- (i) Your Information will be made available on the internet, where it may be accessed, cached and indexed by third parties (including search engines); and
 - (ii) we are not able to prevent third parties from copying or using Your Information in an unauthorised manner. We are not liable to you or any third party for any such unauthorised copying or use.

12.2 Branding

You must ensure that your Products:

- (a) are sold under brand names and trade marks owned or licensed by you; and
- (b) are not copies of any other brand, designer or manufacturer.

12.3 Third party rights

- (a) You are responsible for obtaining any necessary third party rights to grant the licences and comply with your obligations under this agreement.

- (b) You represent, warrant and undertake that Your Products and Your Information do not infringe the Intellectual Property Rights of any third party.
- (c) You agree to indemnify and hold us harmless us against any Loss that we may suffer or incur as a result of any Claim brought against us:
 - (i) relating to or arising from your breach of clauses 11 or 12.2; or
 - (ii) that Your Products or Your Information infringe the Intellectual Property Rights of any third party, except to the extent that such infringement arises from our breach of this agreement.

12.4 Our intellectual property

- (a) We or our licensors retain ownership of all Intellectual Property Rights in and to the Website (other than Your Information).
 - (b) If you provide us with any feedback or suggestions in relation to the Website or our business, we may implement such feedback or suggestions and will own any resulting Intellectual Property Rights that may be created.
 - (c) We grant to you a world-wide, non-exclusive, royalty-free licence to access and use the Vendor Administration Section during the Term, but only for the purposes of editing the information included on your Mini-site in the manner contemplated by this agreement.
 - (d) Except as expressly permitted by this agreement, you may not use or reproduce our name, logo or trade marks without our prior written approval.
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13 Indemnification procedures

- (a) Where we become aware of any Claim that is the subject of an indemnity under this agreement:
 - (i) we will notify you as soon as reasonably practicable of the Claim;
 - (ii) you may take over the defence of the Claim. If you do not do so within a reasonable period of time, we may defend the Claim at your expense as we see fit;
 - (iii) we will provide you with reasonable assistance to permit you to defend the Claim, at your cost; and
 - (iv) in the case of an infringement claim, we will permit you to remove, modify or replace the infringing materials, or obtain for us the necessary rights to continue to use the infringing materials.
 - (b) Each indemnity under this agreement is to be construed separately from any other indemnity in this agreement.
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14 Liability

- (a) All express or implied warranties, representations, statements, terms and conditions relating to this agreement or its subject matter that are not contained in this agreement, are excluded to the maximum extent permitted by law.
- (b) Nothing in this agreement excludes, restricts or modifies any term, condition, warranty, right or remedy implied or imposed by any statute or regulation which cannot lawfully be excluded, restricted or modified, which may include Part V of the Australian *Trade Practices Act 1974* (Cth) and corresponding provisions of Australian state or territory legislation.

- (c) If any term, condition or warranty is implied into this agreement and we are able to limit your remedy for a breach of such a term, condition or warranty, then our liability for breach of the term, condition or warranty is limited to one or more of the following at our option:
- (i) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
 - (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.
- (d) Subject to paragraph (e) and our obligations under the implied terms, conditions or warranties referred to above, and to the maximum extent permitted by law, our maximum aggregate liability for all claims under or relating to this agreement or its subject matter which arise during the Initial Term or any Renewal Term, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to the greater of:
- (i) \$10,000; and
 - (ii) the Commissions that we have received (and which have not been refunded to you) during that Initial Term or Renewal Term (as the case may be).
- In calculating our aggregate liability under this paragraph, the parties must include any amounts paid or the value of any goods or services replaced, repaired or supplied by us for a breach of the implied terms, conditions or warranties referred to above.
- (e) The limitation in paragraph (d) does not apply to:
- (i) liability for personal injury or property damage;
 - (ii) a breach of clause 16; or
 - (iii) our obligation to remit payments to you that we have collected for Orders, in accordance with the terms of this agreement.
- (f) Subject to our obligations under the implied terms, conditions or warranties referred to above, and to the maximum extent permitted by law, we are not liable for, and no measure of damages will, under any circumstances, include:
- (i) special, indirect, consequential, incidental or punitive damages; or
 - (ii) damages for loss of profits, goodwill, anticipated savings or loss or corruption of data,
- whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term, or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.
- (g) Our liability to you is diminished to the extent that your acts or omissions (or those of a third party) contribute to or cause the loss or liability.

15 Insurance

- (a) During the Term, and for a period of six years thereafter in the case of policies written on a “claims made” basis, you must maintain in force a product liability insurance policy in relation to your Products in the amount specified in Item 8 of the Agreement Details, with a reputable and financially sound insurance company.

- (b) If for any reason an insurer cancels, or fails or declines to renew, any such policy then you must, at your own cost, immediately purchase a replacement policy and ensure that the replacement policy includes “prior acts coverage endorsement” effective from the date on which the previous policy ceased to take effect.
 - (c) You must provide us with a certificate of currency for such insurance promptly upon request.
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16 Confidentiality

16.1 Restrictions on use and disclosure

- (a) The Receiving Party may only use the Confidential Information of the Disclosing Party for the purposes of exercising its rights or performing its obligations under this agreement.
- (b) Subject to clause 16.2, the Receiving Party must keep the Disclosing Party’s Confidential Information confidential.

16.2 Permitted disclosures

The Receiving Party may disclose the Confidential Information of the Disclosing Party:

- (a) to:
 - (i) those of its personnel and professional advisers who need to know such Confidential Information; and
 - (ii) any third party in accordance with any sublicensing rights granted under this agreement, provided that the Receiving Party ensures that any such personnel, professional advisers and third parties keep such Confidential Information confidential in accordance with this clause 16; or
- (b) to the extent required by law or in order to comply with any rules or regulations of any internationally recognised securities exchanges.

16.3 Right to injunctive relief

The Receiving Party acknowledges that monetary damages may not be a sufficient remedy for a breach of its obligations under this clause 16, and that the Disclosing Party will be entitled, without limiting any of its other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction if any such breach occurs.

17 Privacy

- (a) You may only use the information that we provide to you in relation to a customer for the purposes of providing them with the Product(s) they have purchased. You may not use such information for marketing or any other purposes.
 - (b) For the avoidance of doubt, the laws you must comply with under clause 11(a) include any applicable privacy laws.
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18 Termination

18.1 Termination

Either party may terminate this agreement with immediate effect by notifying the other party accordingly if:

- (a) the other party breaches any term of this agreement, and fails to remedy that breach within 14 days;
- (b) the other party breaches this agreement in a similar manner on two or more occasions, regardless of whether they are remedied; or
- (c) the other party suffers an Insolvency Event.

18.2 Consequences of expiry or termination

On termination or expiry of this agreement:

- (a) we may immediately remove your Mini-site, including Your Information, from our Website; and
 - (b) both parties must continue to perform their respective obligations in accordance with the terms of this agreement in relation to Orders that have been received prior to the removal of your Mini-site.
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19 Force majeure

- (a) Neither party will be liable for any failure or delay in performing any of its obligations under this agreement if such delay is caused by circumstances beyond the reasonable control of that party.
 - (b) The internet is not necessarily a secure or reliable method of communication. We are not liable for any failure to properly send or receive communications (including Orders) via the internet, or to make available the Website, due to any interference or failure that occurs outside our own computer systems.
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20 General

20.1 Subcontract

We may subcontract the performance of our obligations under this agreement, including to any website developer or internet host. We will, however, remain responsible for the performance of our obligations under this agreement despite any subcontracting.

20.2 Assignment, novation and other dealings

Neither party may assign or novate this agreement or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of the other party, which consent is not to be unreasonably withheld.

20.3 Consents and approvals

Except as expressly provided in this agreement, a party may conditionally or unconditionally in its absolute discretion give or withhold any consent or approval under this agreement.

20.4 Counterparts

This agreement may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

20.5 Costs and expenses

Each party must pay its own costs and expenses of negotiating, preparing and executing this agreement.

20.6 Cumulative rights

The rights of a party under this agreement are in addition to and do not exclude or limit any other rights or remedies provided by law.

20.7 Entire agreement

This agreement is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter. Each party represents and warrants that it has not relied on any representations or warranties about the subject matter of this agreement except as expressly provided in this agreement.

20.8 Further assurances

Except as expressly provided in this agreement, each party must, at its own expense, do all things reasonably necessary to give full effect to this agreement and the matters contemplated by it.

20.9 Governing law

This agreement is governed by the laws of Queensland. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland and the Commonwealth of Australia.

20.10 Notices

- (a) A notice, consent or other communication under this agreement is only effective if it is in writing, signed by or on behalf of the party giving it and it is received in full and legible form at the addressee's address or fax number. It is regarded as received at the time and on the day it is actually received, but if it is received on a day that is not a Business Day or after 5.00 pm on a Business Day it is regarded as received at 9.00 am on the following Business Day.
- (b) For the purposes of paragraph (a), a party's address and fax number are those set out in the Agreement Details, unless the party has notified a changed address or fax number, then the notice, consent, approval or other communication must be to that address or number.

20.11 Relationship of the parties

Except as expressly provided in this agreement, nothing in this agreement is intended to constitute a fiduciary relationship or an agency, sellership or trust, and no party has authority to bind any other party.

20.12 Survival

Clauses 5(c), 9.1(c), 10, 12.4(b), 13, 14, 15, 16, 17, 18.2 and 20 survive termination or expiry of this agreement, together with any other term which by its nature is intended to do so.

20.13 Severability

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this agreement is not affected.

20.14 No third party rights

Each person who executes this agreement does so solely in its own legal capacity and not as agent or trustee for or a vendor of any other person. Only those persons who execute this agreement have a right or benefit under it.

20.15 Variation

No variation of this agreement is effective unless made in writing and signed by an authorised representative of each party.

20.16 Waiver

- (a) No waiver of a right or remedy under this agreement is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
 - (b) A single or partial exercise of a right or remedy under this agreement does not prevent a further exercise of that or of any other right or remedy.
 - (c) Failure to exercise or delay in exercising a right or remedy under this agreement does not operate as a waiver or prevent further exercise of that or of any other right or remedy.
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21 Interpretation

In this agreement the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this agreement;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as nor are intended to be interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party or schedule is a reference to a clause or term of, or party, schedule or attachment to this agreement;
 - (vi) this agreement includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity; and
 - (viii) a monetary amount is in Australian dollars;
- (g) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;

- (h) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this agreement; and
 - (i) if there is any conflict between clauses 1 to 22 of this agreement and any other document referred to in this agreement, clauses 1 to 22 will prevail.
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22 Definitions

In this agreement, unless the context otherwise requires:

Agreement Details means the table of agreement details which appears at the beginning of this agreement.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney.

Claim means any claim, action, proceeding or demand.

Commencement Date means the commencement date specified in item 2 of the Agreement Details.

Commission means the commission specified in item 4 of the Agreement Details.

Confidential Information means (whether or not in material form and whether or not disclosed before or after the Commencement Date) any information of whatever kind disclosed or revealed by one party (the **Disclosing Party**) to the other party (the **Receiving Party**) under or in relation to this agreement that:

- (a) is by its nature confidential;
- (b) is designated by the Disclosing Party as confidential; or
- (c) the Receiving Party knows or reasonably ought to know is confidential,

including the terms of this agreement and the commercial arrangements between the parties, but does not include information that:

- (d) is published or has otherwise entered the public domain without a breach of this agreement or other obligation of confidence;
- (e) is obtained from a third party who has no obligation of confidentiality to the Disclosing Party; or
- (f) is independently developed or obtained without breach of this agreement;

Disclosing Party has the meaning given in the definition of Confidential Information.

GST has the meaning given in the GST Law.

GST Law has the meaning given to it in the *A New Tax system (Goods and Services Tax) Act 1999* (Cth).

Initial Term means the initial term specified in item 3 of the Agreement Details.

Insolvency Event means the occurrence of any one or more of the following events in relation to a party:

- (a) an order is made or an effective resolution is passed for winding up or dissolution without winding up (other than for the purposes of solvent reconstruction or amalgamation) of that party and the order or resolution remains in effect for a continuous period of 7 Business Days;

- (b) a receiver, receiver and manager, official manager, administrator, provisional liquidator, liquidator, or like official is appointed over the whole or substantial part of the undertaking and property of that party and the appointment remains in effect for a continuous period of 7 Business Days;
- (c) a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of that party;
- (d) that party is unable to pay its debts as they fall due;
- (e) that party becomes insolvent or is deemed to become insolvent under any applicable law; or
- (f) that party ceases to carry on business or threatens to do so.

Intellectual Property Rights means any and all intellectual and industrial property rights throughout the world including rights in respect of or in connection with any confidential information, copyright (including future copyright and rights in the nature of or analogous to copyright), moral rights, inventions (including patents), trade marks, service marks, designs and circuit layouts whether or not now existing and whether or not registered or registrable including any right to apply for the registration of such rights and all renewals and extensions.

Loss means any damage, loss, cost, expense or liability.

Mini-site has the meaning given in clause 4.1.

Order means an order for a Product that is placed on our Website.

Our Policies has the meaning given in clause 3.

Payment Provider means any third party that we use to collect payments, which may include a bank, credit or debit card scheme or other payment processing service such as PayPal.

Product means any goods that you make available for purchase through your Mini-Site.

Receiving Party has the meaning given in the definition of Confidential Information.

Renewal Term has the meaning given in clause 2(b).

General Terms and Conditions has the meaning given in clause 0.

Vendor Administration Section has the meaning given in clause 4.4(a).

Vendor Policy has the meaning given in clause 3.

Term means the Initial Term and any Renewal Term.

Virus includes any computer program or code that can disrupt the operation of software, hardware or systems, or cause file deletions, file modifications or other effects that are not part of the functionality of software, hardware or systems.

Website means the hardtofind website at www.hardtofind.com.au, and unless otherwise stated includes your Mini-site.

Your Information means any information or materials that you provide on your Mini-site, including any photos or trademarks.

Your Website means the website operated by you that is specified in item 1 of the Agreement Details.

Schedule 1

Shop Ipswich Vendor Policy

Version 2.

In this policy, capitalised terms have the meaning given in our agreement with you unless otherwise indicated.

1 Contacting us

If you have difficulties accessing or using the Mini-Site, or become aware of a defect in the Mini-Site or any other part of our Website, you may contact us by email at info@shopipswich.com.au

2 Technical requirements for the Vendor Administration Section

To access the Vendor Administration Section, you will require a computer with an internet connection using Internet Explorer version 6 or higher or Firefox version 1.5 or higher. Other browsers such as Safari and Opera may be used, however full support and functionality cannot be guaranteed. The browser must be enabled to accept cookies and SSL certificates from <https://www.hardtofind.com.au>.

3 Communications with customers

As part of your Mini-site, you will have a “contact this vendor” section that will allow you to communicate with customers via email. You must use such functionality in all of your communications with customers.

4 Minimum returns policy

5 Minimum returns policy

We have adopted minimum returns requirements for our vendors. You must:

- (a) permit customers to return Products that they have purchased if the Products are faulty, are different to how they were described or shown, do not serve their intended purpose, or the customer otherwise has a right to return the Product under any applicable law;
- (b) where a customer returns a Product for such reasons, provide for the customer to receive a refund or an exchange of the Product (at the customer’s choice);

- (c) pay for return shipping costs by providing the customer with a stamped, self-addressed post pack; and
- (d) require any return to be made within 14 days of receipt of the Products.

You may choose to offer customers a more favourable returns policy if you wish.

6 Inclusion of Products in your Mini-site

- (a) For each Product that you include in your Mini-site for purchase, you must:
 - (i) include a description of the Product. Any such description must:
 - (A) use sentence-case capitalisation (i.e. capitalise the first letter of a sentence and any proper nouns, and use lowercase for the remainder of a sentence); and
 - (B) not include exaggerated phrases or superlatives to describe a Product;
 - (C) include photograph(s) of the Product. You may include up to five photographs of a Product (which must each be different), plus one additional photograph for each variant of the Product (such as different colours or styles). Photographs must be uploaded in JPG, GIF or PNG format, and must be professionally shot, square images (not landscape), deep-etch, 300dpi and no more than 800 pixels high or wide. We may resize photographs to suit our technical requirements.
 - (ii) specify the price of the Product, in Australian dollars inclusive of GST; and
 - (iii) the shipping options that you provide in relation to the Product (as further described in section 9 below).
 - (b) You may list a maximum of 150 Products in your Mini-site. You must not list the same Product more than once. You may allocate a Product in **no more than three** of our pre-determined product categories. You must ensure that any names, descriptions or categories that you give to a Product are appropriate.
 - (c) You will be able to enter the number of items of stock for each Product that you have available, and the Mini-site will indicate when that number of items has been purchased. You must ensure that the number of items that you specify in this manner is available for purchase at all times. You must remove or hide Products from the Website that are out of stock unless you are expecting to receive new stock shortly.
-

7 Order process

When a customer places an Order:

- (a) we will collect the payment for the Order on your behalf, using the payment mechanisms which we make available from time to time on the Website;
- (b) we may not process or collect the payment for an Order in certain circumstances, such as:
 - (i) if we suspect the Order is fraudulent;
 - (ii) the Order is from a customer outside of Australia; or
 - (iii) our processing of the payment fails.

Where we do so, you will not receive any notification from us of the corresponding Order; and

- (c) once we have collected the payment for an Order we will:
 - (i) pass on to you the Order details that we receive. You will receive an email alerting to you receipt of the Order, and you may log-on to the Vendor Administration Section to

receive the Order details. We will not, however, pass on to you any credit-card or other information relating to the form of payment relating to an Order; and

- (ii) remit the associated payment to you in accordance with our agreement with you, less our Commission.
-

8 Fulfilling orders

8.1 Fulfilment

On receipt of an Order you must:

- (a) fulfil the Order, including by shipping the order within 2 Business Days (unless otherwise specified in your Delivery Terms);
 - (b) notify the customer through the Vendor Administration Section of:
 - (i) your receipt and acceptance of the Order;
 - (ii) any delays in the shipping of the Order; and
 - (iii) the shipping of the Order, as and when they occur; and
 - (c) include with each shipped Order:
 - (i) a packing slip generated through the Vendor Administration Section; andOther than as described in section 8.2, you may not include any other materials with a shipped Order.
-

9 Shipping options

- (a) We will only accept Orders on your behalf from customers who are located within Australia. However, customers may be able to request shipping to destinations outside of Australia, for the purposes of giving a gift.
 - (b) If an Order is not received by the customer for any reason, the responsibility lies with the Vendor to replace the Order without delay. We recommend you choose a registered method of delivery.
-

10 The return/refund process

A customer may return a Product that they have purchased if the Product is faulty, different to how it was described or shown, does not serve its intended purpose, or they otherwise have a right to return the Product under any applicable law.

If a customer wishes to exchange a product or return a product that is faulty, they must inform us via email at info@shopipswich.com.au, within 14 days of receipt of the order. Once they have done so, we will inform you of their request and you must provide the customer with a stamped, self-addressed post pack in which to return the item. Once the faulty item is received, the customer will be offered a full refund or store credit, whichever they prefer. Any refunds will be made to the customer's credit card (via PayPal) or PayPal account.

If a customer changes their mind on a purchased item, they will be given a store credit to the same value once the item has been received by you, and any shipping costs incurred will not be refunded.

All items being returned must not be affected by being used in an abnormal way, or reduced in value in any way.

If for any reason a product that a customer has ordered is not available or out of stock, we will also refund them via PayPal or offer them a store credit to the same value, and in this case any shipping costs will be refunded.

IMPORTANT: You must adopt this standard Returns Policy, however we understand that some items which are hand-made to order may not be returned/exchanged for any reason. You can therefore edit your returns policy as required.

APPENDIX

General Terms and Conditions

www.shopipswich.com.au is a website operated by The Ipswich Chamber of Commerce and Industry ("we", "us" and "our").

Our website includes products available for purchase from various vendors ("Vendors"). If you place an order for a product on our website (a "Product"), you are placing any order with the Vendor of the product, and not us. We make the products available for purchase (including by taking orders and collecting payment) as the agent of the Vendor, and not on our own behalf.

When you place an order to purchase a Product via this Website, you are making an offer directly to the Vendor. No order shall be deemed to be accepted by the Vendor until we (acting as the agent of the Vendor) issue an email acknowledgement of order. The contract between you and a Vendor will relate only to those goods and/or services notified in the email acknowledgement of order.

If a Vendor accepts your order for the purchase of a Product, then an agreement is formed between you and the Vendor and you have rights directly and only against the Vendor, and not us. We are not a party to that agreement.

If a Vendor accepts your order for the purchase of a Product, then the following terms apply to the agreement with the Vendor relating to that purchase.

1. Payment

(a) You agree to pay the purchase price specified on the website at the time that you place your order for the purchase of a Product, and any applicable shipping and insurance charges based on the shipping options selected by you. All amounts are stated in Australian dollars. All purchase prices include Australian GST (where applicable). Shipping and any insurance charges will be separately shown.

(b) If the goods are being delivered outside of Australia, you must pay any other sales, use, goods and services, value added, customs, excise or similar taxes or charges ("Other Taxes") imposed by any applicable government agency. The Vendor is unable to advise you on the amount of any Other Taxes, and you should contact the taxing authorities of the country that the Products are to be shipped to if you are unsure whether any Other Taxes will apply.

(c) You must pay for the Product online by credit card or PayPal account. Your payment will be processed upon receipt of your order. The credit cards that are accepted from time to time will be described on the website. A surcharge may apply for the use of certain credit cards, and where this is the case this will also be described on the website.

2. Cancellation of orders

(a) The Vendor may cancel an order that it has already accepted if the Vendor suspects that you are acting fraudulently (such as using a credit card without proper authorisation) or in breach of these terms.

(b) While the Vendor endeavours to avoid pricing and other errors, inadvertent errors do occur from time to time and the Vendor may also cancel an order that it has accepted in such circumstances.

(c) Unforeseen supply problems or unexpected demand may occasionally result in a Product being unavailable. If there is a delay in shipping your order the Vendor will contact you by email as soon as possible to advise you of the reason for the delay. If this occurs, you may cancel your order at any time prior to when the Vendor ships the Product to you.

(d) You may also cancel an order if the Vendor is in breach of these terms.

3. Delivery

(a) The Vendor will normally ship the Product within 2 Business Days of Vendor's receipt of your order, unless otherwise noted in the Product description. Any delivery times displayed on the website are estimates only, based on the information provided to the Vendor by its shipping company.

(b) The Vendor will deliver the Product to the place of delivery you specify when making your order. Title to and risk in the Product will pass to you upon delivery of the Product to this place of delivery.

4. Returns

You can return or exchange any item, for any reason, within 30 days of receipt.*

If the item you wish to return is faulty, the appropriate vendor will either require photo proof of the faulty item and then provide you with a stamped, self-addressed post pack in which to return it, or will discuss with you a better option to return the goods.. Once the faulty item is received, you will be offered a full refund or store credit, whichever you prefer. Any refunds will be made to your credit card (via PayPal) or PayPal account.

If you change your mind on a purchased item, you will be given a store credit to the same value once the item has been received by the appropriate vendor, and any shipping costs incurred will not be refunded. Please ensure you use a trackable or signed-for delivery service such as registered post, as we cannot credit your account until the item has been received.

*Items that cannot be exchanged or refunded for change of mind include: shopipswich. gift cards. (please refer to clause 5), personalised products, made-to-order furniture, underwear, earrings for pierced ears and food items that have been opened. All items being returned must be in original condition and packaging and not be affected by being used in an abnormal way, or reduced in value by delay on your part.

If for any reason a product you have ordered is not available or out of stock, we will also refund you via PayPal or offer you a store credit to the same value, and in this case any shipping costs will be refunded.

Please note: We are unable to return or exchange an item that is not being returned or exchanged by the original purchaser.

5. shopipswich. gift cards

(a) shopipswich. gift cards are valid for 1 year and cannot be returned or exchanged for cash.

(b) All returned items that were paid for with a shopipswich. gift card will be refunded as a store credit for you to use against a future purchase.

(c) If you return an item paid by both gift card and credit card or PayPal, you will be refunded on your credit card/PayPal up to the amount of your initial card/PayPal payment and the remaining amount will be refunded as store credit.

(d) All shopipswich. gift cards are in Australian dollars.

6. Licence to use the content on this Website

(a) You acknowledge that this Website and all related content is subject to copyright and possibly other intellectual property rights ("Intellectual Property Rights").

(b) We grant you a limited, non-transferable licence to access and use this Website solely for your personal, non-commercial purposes.

(c) We (or our licensors) retain all right, title, and interest in and to this Website and all related content, and nothing you do on or in relation to this Website or any of the related content will transfer any Intellectual Property Rights to you or, except for the licence referred to in paragraph (b), licence you to exercise any Intellectual Property Rights unless this is expressly stated.

(d) Except as provided in these terms and conditions, permission to reprint or electronically reproduce this Website or any related content in whole or in part for any other purpose is expressly prohibited, unless prior written consent is obtained from us.

(e) Subject to applicable law, we may revoke the permission referred to in paragraphs (b) and (d) at any time and may suspend or deny, in our sole discretion, your access to all or any portion of this Website without notice.

(f) If purchasing products containing liquor, you must be over 18 and agree to all relevant legislations and acts for each respective Australian state and territory in respect of the specified premises that are the subject of each respective licence.

7. General restrictions

(a) You must not disclose to any other person any user name and password that we give to you. We will assume that any use of this Website made using that user name and password is you, and you will be responsible for any such use, except where you have notified us under paragraph (b).

(b) You must notify us if you become aware of any improper use or disclosure of your user name and password, in which case we will allocate a new user name and password to you.

(c) In using this Website, you must not:

(i) provide us with inaccurate or incomplete information;

(ii) violate any applicable laws, or use this Website for any purpose that is unlawful or prohibited by these terms and conditions;

(iii) impersonate any person;

(iv) distribute viruses, corrupt files, or any other similar software or programs that may damage the operation of any computer hardware or software;

(v) collect or store personal data about other users of this Website; or

(vi) engage in any other conduct that inhibits any other person from using or enjoying this Website.

8. Information provided by Vendors

Much of the information on this Website is provided by our Vendors, including all of the information relating to the products that may be purchased from those Vendors. While we believe that our Vendors are reliable sources of this information, we cannot be responsible for such information.

9. Warranties and liability

(a) The Vendor warrants that if any Product fails to comply with the following promises within 30 days of your receipt of the Product, you may return the Product to the Vendor for a full refund or store credit as described in section 4 above:

(i) each Product will comply in all material respects with any descriptions given on this Website;

(ii) unless otherwise noted, where the Products are items of clothing they will be new and not second-hand; and

(iii) each Product will be in saleable condition (subject to any defects described on this Website prior to purchase).

In addition, if the Australian Consumer Law applies to the Vendor's sale of a Product to you, the Vendor provides you with notice of the following guarantee under the Australian Consumer Law:

You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

(b) All express or implied warranties, representations, statements, terms and conditions relating to these terms and conditions or a Product that are not contained in these terms and conditions, are excluded to the maximum extent permitted by law.

(c) Nothing in these terms and conditions excludes, restricts or modifies any guarantee, term, condition, warranty, right or remedy implied or imposed by any statute or regulation which cannot lawfully be excluded or limited, (which may include the Australian Consumer Law, which (as described above) contains guarantees which operate to protect the purchasers of goods and services in various circumstances).

(d) If any guarantee term, condition or warranty is implied or imposed in relation into this agreement (a Non-Excludable Provision) and the Vendor is able to limit your remedy for a breach of such a Non-Excludable Provision, then the Vendor's liability for breach of the Non-Excludable Provision is limited to one or more of the following at the Vendor's option:

(i) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or

(ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

(e) Subject to the Vendor's obligations under any Non-Excludable Provision, and to the maximum extent

permitted by law, the maximum aggregate liability of the Vendor for all claims under or relating to these vendor terms or a Product, whether in contract, tort (including negligence), in equity, under statute or on any other basis, is limited to an amount equal to the greater of:

(i) AUD\$100; and

(ii) the amounts paid by you to the Vendor as a result of the purchase of a Product.

In calculating the Vendor's aggregate liability under this paragraph, the parties must include any amounts paid or the value of any goods or services replaced, repaired or supplied by the Vendor under any Non-Excludable Provision.

(f) Subject to the Vendor's obligations under any Non-Excludable Provision, and to the maximum extent permitted by law, the Vendor is not liable for, and no measure of damages will, under any circumstances, include:

(i) special, indirect, consequential, incidental or punitive damages; or

(ii) damages for loss of profits, revenue, goodwill or anticipated savings,

whether in contract, tort (including negligence), in equity, under statute or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.

(g) The Vendor's liability to you is diminished to the extent that your acts or omissions (or those of a third party) contribute to or cause the loss or liability.

10. Variation of this Website

We may from time to time and without notice, vary, modify or discontinue, temporarily or permanently, any or all of this Website (including the Vendors that may be included from time to time on this Website).

11. Privacy policy

In using this Website, you may give us personal information in which you have certain rights. By using this Website, you grant us consent to use your personal information in accordance with our privacy policy, which forms a part of these terms and conditions.

12. General

(a) Neither party will be liable for any delay in performing any of its obligations under these terms and conditions if such delay is caused by circumstances beyond the reasonable control of that party.

(b) If any part of these vendor terms is held to be unenforceable, the unenforceable part is to be given effect to the greatest extent possible and the remainder will remain in full force and effect.

(c) These vendor terms are governed by the laws of Queensland, Australia, and each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland, Australia.

(d) These vendor terms constitute the entire agreement between the Vendor and you in relation to the Products and supersede all other (prior or contemporaneous) communications or displays whether electronic, oral, or written, between the Vendor and you in relation to the Products.

(e) Your purchase of the Products is conducted electronically and each party agrees that the other may communicate with it electronically for all aspects of any Product purchase, including by sending electronic notices.

(g) The term "including" when used in these vendor terms is not a term of limitation.