

# BARTER AGREEMENT

This Agreement (the “Agreement”) is made effective as of [DATE], by and between [NAME OF OFFEROR] of [ADDRESS] (the “Offeror”) and [NAME OF OFFEREE] of [ADDRESS] (the “Offeree”) who jointly agree to be bound by the following terms and conditions when bartering goods and services as outlined below (the “Bartered Goods and Services”).

WHEREAS Offeror offers the following goods and services for barter: [DESCRIPTION OF GOODS AND SERVICES]. The fair market value of these goods and services are [INSERT DOLLAR AMOUNT FOR EACH GOOD AND SERVICE].

WHEREAS, Offeree offers the following goods and services for barter in exchange: [DESCRIPTION OF GOODS AND SERVICES]. The fair market value of these goods and services are [INSERT DOLLAR AMOUNT FOR EACH GOOD AND SERVICE].

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The delivery or exchange of the Bartered Goods and Services is to be made on or before [INSERT DATE] at the following location [INSERT LOCATION].

[[ALTERNATE LANGUAGE:] Upon delivery or completion of Offeree’s goods and services under this Agreement, Offeror shall cause his/her goods and services to be transferred to Offeree within [INSERT NUMBER] days of the completion of performance at the following location [INSERT LOCATION].]

1. Offeror and Offeree each represent to the other that they will deliver and exchange the Bartered Goods and Services at the time and location provided above. Each party agrees to inform the other of anticipated fees before commencement of any exchange of goods and services under this Agreement.
2. Both parties agree that all service fees and out of pocket expenses charged by third-parties which are necessary to render the Bartered Goods and Services shall be paid by the party for whose benefit the Bartered Goods and Services are rendered. In the event that this third-party fee/expense is necessary, the benefiting party shall be provided written notice with an explanation of the fee/expense and when payment must be made, and shall be required to approve said fee/expense in writing. If approval is not given, then the party requesting approval shall do their best to comply with the terms of this Agreement without the fee/expense.
3. Each party represents that they are freely and legally entering into this Agreement and will hereby abide by its terms and conditions.

4. Each party agrees to adhere to the price of the Bartered Goods and Services set by the other party in this Agreement as final. Each party represents that, to the best of their knowledge, the pricing for their Bartered Goods and Services accurately represents the fair market value within the applicable industry.
5. Each party represents and warrants that (i) the Bartered Goods and Services they have offered for barter can legally be sold by them and their assigned agents or dealers; (ii) they have full power to enter into this Agreement; and (iii) if goods are exchanged, that they are new and do not contain used or reconditioned parts, unless otherwise specified above. Each party also represents and warrants that, to the best of their knowledge, their Bartered Goods and Services do not infringe upon any statutory or common law rights of any kind whatsoever, or of any third party, and that their Bartered Goods and Services are free and clear of all encumbrances. Each party also represents and warrants to the best of their knowledge that the information included in this Agreement is true and correct.
6. **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 4 ABOVE, NEITHER PARTY MAKES ANY WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**
7. Each party shall indemnify, defend, and hold harmless the other, its officers, trustees, agents, assign, and employees, from and against any and all claims, demands, suits, losses, liabilities, and costs, including attorneys' fees, arising out of any alleged breach of the foregoing warranties or any alleged violation of copyright or other property rights.
8. Each party hereby agrees to adhere to the delivery schedule as set by the parties. Each party further agrees to deliver goods and/or services in the condition set forth above.
9. Either party may terminate this Agreement, with or without cause, provided that 30 days written notice is given prior to the effective date of said termination. If a party opts to terminate this Agreement or the underlying barter arrangement, the terminating party agrees to compensate the non-terminating party in accordance with the fair market rate for any goods and/or services provided to date of termination notice. The party that did not opt for termination will owe no compensation to the party that terminates this Agreement.
10. The parties hereby agree to cooperate with one another and to execute and deliver, or cause to be executed and delivered, to the other such additional instruments of conveyance and transfer and evidences of assumption as such party may reasonably request or as may be otherwise necessary or desirable to carry out the purposes of this Agreement.

11. Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party.
  
12. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, representations, and statements, whether oral, written, implied, or expressed, relating to such subject matter.
  
13. This Agreement, including all exhibits, schedules, attachments, and appendices attached to this Agreement and thereto[, and all matters arising out of or relating to this Agreement,] are governed by, and construed in accordance with, the Laws of the State of [STATE], United States of America, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of [STATE].
  
14. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement and all contemplated transactions, including contract, equity, tort, fraud, and statutory claims, in any forum other than a court located in [STATE AND COUNTY OF COURT].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

[OFFEREE'S NAME]

By \_\_\_\_\_

Name:

Title:

[OFFEROR'S NAME]

By \_\_\_\_\_

Name:

Title: