

[Terms of Service](#)

Overview of Terms Of Service (Terms & Conditions)

Welcome to the Biarri Pty Ltd ("**Biarri**") website, www.Biarri.com (the "**Biarri Site**" or "**web site**"). The following Terms of Use for the Biarri Site is a legal contract between you, an individual user or a single entity (collectively or individually "**Users**"), and Biarri regarding your use of the Biarri Site. Together, Users and Biarri are referred to herein individually as "Party" or collectively as the "Parties". When using the Biarri Site, you will be subject to any additional posted guidelines or rules applicable to specific services and features which may be posted from time to time (the "**Guidelines**"). All Guidelines are hereby incorporated by reference into these Terms of Use.

BEFORE USING THE BIARRI SITE, PLEASE READ CAREFULLY THE FOLLOWING TERMS OF SERVICE. BY REGISTERING FOR AND/OR ACCESSING, BROWSING, OR USING THE BIARRI SITE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS, INCLUDING THE GUIDELINES, AND ANY FUTURE MODIFICATIONS (COLLECTIVELY, THE "**TERMS**"). IF AT ANY TIME YOU DO NOT AGREE TO THESE TERMS, PLEASE IMMEDIATELY TERMINATE YOUR USE OF THE BIARRI SITE

1. Eligibility. In order to use the Biarri Site, you must be the age of majority in your jurisdiction and fully able and competent to enter into the terms, conditions, obligations, affirmations, representations and warranties set forth in these Terms and to abide by and comply with these Terms. You represent that you meet the eligibility requirements in this Section. In any case, you affirm that you are over the age of 13, as the Biarri Site is not intended for children under 13. If you are using or opening an account on the Biarri Site on behalf of a company, entity, or organization (collectively "**Subscribing Organization**"), then you represent and warrant that you: are an authorized representative of that Subscribing Organization with the authority to bind such organization to these Terms; and agree to be bound by these Terms on behalf of such Subscribing Organization.

Use of the Biarri Site and any or all of our services are subject to the following conditions -

- [Terms Of Service](#)
- [Privacy Policy](#)
- [Fair Play Promise](#)
- [Subscription Agreement](#)

All these documents are available here and Biarri reserve the right to vary these agreements from time to time. In all our agreements the use of product names (including but not limited to Biarri, Biarri.com, Workbench, www.Biarriworkbench.com or other product or service names listed on our website at www.Biarri.com) refer to the company Biarri Pty Ltd providing those products and these terms may be used interchangeably.

Terms Of Service (also referred to as “Terms & Conditions” and “Terms Of Use”)

1. General

Biarri Pty. Ltd. provides Internet Subscription services to users in Australia and in other countries. The following Terms and Conditions apply for the Biarri Subscriber Services. Amendments to terms and conditions will occur regularly. Look for any amendments by going to the link at the bottom of the Biarri website (www.Biarri.com). If there are changes to charges then they will be effective at least 14 days from posting to this same page. Use of the service after that date constitutes acceptance of the amended Terms and Conditions. These Terms and Conditions supersede prior agreements. These terms and conditions are governed by the laws of Queensland, Australia, and all parties submit to the non-exclusive jurisdiction of the courts of this State.

2. Definitions

“Access Authority” means the Subscriber and/or individuals who the Subscriber prescribes levels of access to your Biarri Online Account and where the Subscriber has made available to those individuals the “Email Address/Sign-in ID” and “Password” to allow them access.

“Online Services” means the Biarri Online Services accessed via the Biarri website, by Registration as a User and by signing on for use using Access Authority.

“Password” means a confidential alphanumeric which when used with other Access Authority information, gives access to Online Services

“User” means:

1. if you are the account owner, the person you nominate (if you choose to do so), from time to time, as part of the Registration process, to use the internet services available through the website
2. if you are not the account owner, but have been authorised to operate accounts under an Access Authority then you are the User
3. “We, us or our” means Biarri Pty. Ltd.
4. “You and your” means the Subscriber to Biarri Online Services and includes a User when applicable

When used in relation to the Biarri application/service, the terms “Member” and “Membership” are synonymous with “Subscriber” and “Subscription” throughout this website and in correspondence to Users of the Biarri Online Services.

“Biarri Logo’s” means any logo, brand, trademark, image or other material we provide containing the terms Biarri, Biarri Workbench and all other associated trademarks, trading names, URL’s be they registered or otherwise.

3. Internet Online Services

3.1 How to setup. You must provide all equipment necessary to make a connection to the World Wide Web and pay any service fees to providers for access. After gaining access to the World Wide Web, you must obtain access to and pay for the use of Biarri Online Services. This is

accomplished by registering as a Biarri subscriber or by using any user id on the site provided by us or any third party.

3.2 Your Obligation to Pay Fees For Online Services and Consulting Services. You agree to pay all Online Services Subscription Fees Biarri charges you for the Online Services when you Register. You also agree to pay all Consulting Service Fees for staff services if any are specifically requested by you and provided by our staff. You agree to pay all foreign, Commonwealth, State and Local Government, state taxes applicable to your access, use or receipt of the Service, these will always be disclosed to you clearly in advance. If Biarri are required to collect overdue fees from you, you agree to pay all reasonable costs (including legal fees), if any, incurred by Biarri in collecting those overdue fees from you, and to pay a late charge on any overdue fees at our bank's business cheque account overdraft rates. If a Member fails to pay their Membership fees for the Online Service within seven days of the due date, Biarri reserves the right to restrict access, or "lock", all files that belong to the unpaid Membership. When a Membership is locked, all users of the affected files will be unable to view, edit or add any data to the file. Full access will be restored upon receipt of all accumulated unpaid Membership fees.

3.3 How to Register to Use Your Biarri Online Services. You may register by using the Biarri website Registration Page or using the Registration document provided by Biarri staff. The Registration asks you agree to provide correct information about yourself or company, to list the users who will have Access Authority and to maintain and update such information to keep it accurate and complete. You may designate a number of users to have Access Authority and you may provide and assign access and passwords to such users. Biarri may suspend or terminate your account and refuse use of the Online Service if you provide any information (including a valid contact email address and phone number) that is false, misleading, inaccurate, not current or incomplete, or if Biarri has reasonable grounds to believe that such information is false, misleading, inaccurate, not current or incomplete or any terms in this agreement are breached. Biarri may suspend or terminate your account and refuse use of the Online Service if you are deemed to be abusive to staff or use language that is deemed to be abusive to staff, such deeming shall be at the sole discretion of Biarri. You authorise Biarri to use extracts from service related communication on our web site (typically on the testimonials page) and other material in text form and Biarri may include your business name, market segment and a link to your website if you have provided one and this use is conditional on Biarri excluding any material that may be deemed confidential, such deeming shall be at the sole discretion of Biarri but will explicitly focus on service quality and customer experience in use of our products and exclude financial or other business transaction related information.

3.4 Information Confidentiality. As part of the Registration process you will select a password. You will be responsible for maintaining confidentiality of any password and other access information used by yourself and your authorised users who have Access Authority. You acknowledge that the Internet is an open system and Biarri cannot and does not warrant or guarantee that third parties cannot intercept your information.

3.5 Communications Between You and Biarri. Biarri reserves the right to contact Subscribers by web page, email, fax, post, internet chat, phone text messaging (SMS) or telephone (or other means in the future as they are developed from time to time) to communicate important

information regarding the use of the Service. Information related to other Biarri or site content matters, not covered by an existing agreement for Services, will only be communicated if the Subscriber agrees to receive that information.

3.6 Not Used.

3.7 Your Non-Transferable License. Biarri grants you a non-transferable, non-exclusive and terminable right licence to use the Subscription Services under these Terms and Conditions. Title and ownership of the Subscription Services remain with Biarri. You agree not to copy (or allow a third party to copy), modify, create a derivative work, reverse engineer or reverse assemble, disassemble, or decompile the Software, or any other action to allow its whole or partial re-use by the Subscriber or others. Title and ownership of data entered by the Subscriber, or those with Authorised Access to the Subscribers database, remains with the Subscriber. You are licenced for the number of users specified in the subscription plan to which you are a subscriber. In the event of an upgrade, the Licence hereby granted shall automatically transfer to the new version. All rights in respect of the original version shall lapse and no further use of same shall be permitted. The Licence in this agreement is effective until suspended or terminated by us or by ceasing subscription payments. Payment terms for your subscription are in advance of the next Subscription period. In the event you choose to end your subscription service but you would like to keep your data, you may export it using the export functions provided in the service or Biarri can provide CSV file(s), or equivalent, at a reasonable cost of not less than \$US99 plus GST per file. We reserve the right to charge for time and materials if your request is unusual and this is decided at our sole discretion. You agree to use your best endeavours to ensure the safeguard of your Password(s) for your organisation in order to ensure there is no unauthorised access to, copying of, or collection of information from you data file and you indemnify Biarri for any and all losses you may incur as a result of failing to safeguard your Password.

3.8 How to Terminate Your Service. You may terminate the Online Service by giving us written notice. Monthly payment Subscribers must provide 1 month's notice. Subscribers who pay a one year Subscription in advance may not terminate part way through the year, those Subscribers terminate the service by not renewing for a following year.

3.9 Biarri General Practices Regarding Use of the Service. Biarri may establish general practices and limitations that apply to the use of the Service. You acknowledge that Biarri reserves the right to change these general practices and limits at any time, at its discretion. You also acknowledge that Biarri reserves the right to disable accounts that are inactive for an extended period of time; and that Biarri may log off (also referred to as sign off or sign out) users who have been inactive for a reasonable period of time or for the purposes of conducting reasonable system maintenance and repairs. You also acknowledge that Biarri reserves the right to disable or change features of the service if those features are infrequently used by Biarri customers or if at the sole discretion of Biarri those changes are deemed necessary.

3.10 API and Map Data Downloads. Biarri and its licensors may make certain application programming interfaces ("**APIs**") and map data obtained from the OpenStreetMap project ("**Map Data**") available to you for download (for a fee or otherwise) from the Biarri Site. Any Map Data that you may download from the Biarri Site are licensed for use solely under the terms of the [Creative Commons Attribution Share-Alike 2.0 License](#). Your use of the APIs are governed by these Terms as well as the Terms of Service included with the APIs or as otherwise

presented to you at the time of download. For the avoidance of doubt, software provided by Biarri and made available as part of an API is not covered by the [Creative Commons Attribution Share-Alike 2.0 License](#).

3.11. Ownership; Proprietary Rights. As between the Parties, the Biarri Site including the content, visual interfaces, interactive features, information, graphics, design, compilation, computer code, products, software, services, and all other elements of the Biarri Site that are provided by Biarri (but excluding the Map Data, which are governed solely under the terms of the [Creative Commons Attribution Share-Alike 2.0 License](#)) ("**Biarri Materials**") are owned and/or licensed by Biarri. Biarri Materials do not include Non-Biarri Content (as defined below). Except as expressly authorized by Biarri, you agree not to sell, license, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make unauthorized use of the Biarri Site or the Biarri Materials. Biarri reserves all rights not expressly granted in these Terms. User shall not acquire any right, title, or interest to the Biarri Materials, except for the limited rights set forth in these Terms.

3.12. User Submissions.

- (a) General. The Biarri Site may now or in the future permit the submission and posting or linking of media, text, audio and video recordings, photos, commentary or any other content submitted by you and other users ("**User Submissions**"), and the hosting, sharing, and/or publishing of such User Submissions. User Submissions are not controlled by Biarri. Biarri makes no representations that it will publish or use your User Submissions in any way and may or may not use your User Submissions in its sole discretion. You understand that whether or not such User Submissions are published, Biarri does not guarantee any confidentiality with respect to any User Submissions.
- (b) Grant of Rights. By submitting User Submissions to Biarri, you hereby grant Biarri and its affiliates a worldwide, non-exclusive, fully paid-up, royalty-free, perpetual, irrevocable, transferable license, with the right to grant and authorize sublicenses, to use, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit your User Submissions in connection with the Biarri Site and Biarri's (and its successor's) business, including without limitation for promoting and redistributing part or all of the Biarri Site (and derivative works thereof) in any media formats and through any media channels now known or hereafter discovered. You grant Biarri and its affiliates and sublicensees the right to use the name that you submit in connection with such User Submission if they choose. You also agree to irrevocably waive (and cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Submissions. You also hereby grant to each user of the Biarri Site a non-exclusive license to access your User Submissions through the Biarri Site, and to use, reproduce, distribute, prepare derivative works of, display, and perform such User Submissions as permitted by the functionality of the Biarri Site and these Terms.
- (c) Your Representations and Warranties Regarding User Submissions. You shall be solely responsible for your own User Submissions and the consequences of posting or publishing them. In connection with User Submissions, you affirm, represent, and/or warrant that: (i) you own, or have the necessary licenses, rights, consents, and permissions to use and authorize Biarri to use, all patent, trademark, copyright, or other

proprietary rights in and to any and all User Submissions to enable inclusion and use of User Submissions in the manner contemplated by Biarri and these Terms, and to grant the rights and license set forth in this Section, and (ii) your User Submissions, Biarri's use of such User Submissions pursuant to these Terms, and Biarri's exercise of the license rights set forth in this Section, do not and will not: (a) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (b) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (c) violate any applicable law or regulation.

(d) Prohibited Uses of User Submissions. In connection with your User Submissions, you further agree that you will not publish, post, submit, transmit through or otherwise make available to the Biarri Site:

- (i) any falsehoods or misrepresentations that could damage Biarri or any third party;
- (ii) any material which is unlawful, defamatory, libelous, slanderous, pornographic, obscene, abusive, profane, vulgar, sexually explicit, threatening, harassing, harmful, hateful, racially or ethnically offensive or otherwise objectionable, or which encourages conduct that would be considered a criminal offense, give rise to civil liability, violate any law or any right of privacy or publicity, or is otherwise inappropriate;
- (iii) advertisements or solicitations of business, products, or services; or
- (iv) any material that would be harmful to minors in any manner.

3.13. Non-Biarri Content Disclaimer. You understand that when using the Biarri Site you will be exposed to User Submissions and other third party content (but excluding the Map Data, which are governed solely under the terms of the [Creative Commons Attribution Share-Alike 2.0 License](#)) together, the "Non-Biarri Content") from a variety of sources, and that you may be exposed to Non-Biarri Content that is inaccurate, offensive, indecent, or otherwise objectionable. Biarri does not endorse any Non-Biarri Content or any opinion, recommendation, or advice expressed therein. Under no circumstances will Biarri be liable in any way for or in connection with the Non-Biarri Content, including, but not limited to, for any inaccuracies, errors or omissions in any Non-Biarri Content, any intellectual property infringement with regard to any Non-Biarri Content, or for any loss or damage of any kind incurred as a result of the use of any Non-Biarri Content posted, emailed or otherwise displayed or transmitted through the Biarri Site.

3.14. Non-Monitoring of Users and Non-Biarri Content. You understand that you, and not Biarri, are entirely responsible for all User Submissions that you upload, post, e-mail, transmit or otherwise make available through the Biarri Site. Biarri does not control the Non-Biarri Content posted by Users or otherwise made available by other persons and does not have any obligation to monitor such Non-Biarri Content for any purpose. If at any time, Biarri chooses, in its sole discretion, to monitor the Non-Biarri Content, Biarri nonetheless assumes no responsibility for the Non-Biarri Content, no obligation to modify or remove any inappropriate Non-Biarri Content, and no responsibility for the conduct of the user submitting any such Non-Biarri

Content. You agree that you must evaluate, and bear all risks associated with the use of any User Submissions or other Non-Biarri Content, including any reliance on the accuracy, completeness, usefulness, or legality of such User Submission or other Non-Biarri Content.

3.15. Removal of Non-Biarri Content. Biarri and its designees shall have the right (but not the obligation) in their sole discretion to refuse to post or remove any Non-Biarri Content that is available on the Biarri Site in whole or in part at any time for any reason or no reason, with or without notice and with no liability of any kind.

3.16. Prohibited Uses of the Biarri Site.

- (a) As a condition of your use of the Biarri Site, you hereby represent and warrant that you will not use the Biarri Site for any purpose that is unlawful or prohibited (including without limitation, the prohibitions in this Section) by these Terms.
- (b) Any use by you of any of the Biarri Materials and Biarri Site other than for your personal use is strictly prohibited. You agree not to reproduce, duplicate, copy, sell, trade, resell, distribute, or exploit any portion of the Biarri Site, use of the Biarri Site, access to the Biarri Site, or Non-Biarri Content obtained through the Biarri Site, for any purpose other than for your personal use.
- (c) You agree not to use the Biarri Site if you do not meet the eligibility requirements described in Section 1 above.
- (d) You agree not to defame, harass, abuse, threaten, stalk or defraud users of the Biarri Site, or collect, or attempt to collect, personal information about users or third parties without their consent.
- (e) You agree not to intentionally interfere with or damage, impair or disable the operation of the Biarri Site or any user's enjoyment of it, by any means, including uploading or otherwise disseminating viruses, worms, spyware, adware, or other malicious code.
- (f) You agree not to remove, circumvent, disable, damage or otherwise interfere with any security-related features of the Biarri Site, features that prevent or restrict the use or copying of any part of the Biarri Site, or features that enforce limitations on the use of the Biarri Site.
- (g) You agree not to attempt to gain unauthorized access to the Biarri Site, or any part of it, other accounts, computer systems or networks connected to the Biarri Site, or any part of it, through hacking, password mining or any other means or interfere or attempt to interfere with the proper working of the Biarri Site or any activities conducted through the Biarri Site.
- (h) You agree not to obtain or attempt to obtain any materials or information through any means not intentionally made available through the Biarri Site. You agree neither to modify the Biarri Site in any manner or form, nor to use modified versions of the Biarri Site, including (without limitation) for the purpose of obtaining unauthorized access to the Biarri Site.

- (i) You agree that you will not use any robot, spider, scraper, or other automated means to access the Biarri Site for any purpose without our express written permission or bypass our robot exclusion headers or other measures we may use to prevent or restrict access to the Biarri Site.
- (j) You agree not to utilize framing techniques to enclose any trademark, logo, or other Biarri Materials without our express written consent. You agree not to use any meta tags or any other "hidden text" utilizing Biarri's name or trademarks without our express written consent.
- (k) You agree not to deep-link to the Biarri Site and will promptly remove any links that Biarri finds objectionable in its sole discretion. You agree not to use any Biarri logos, graphics, or trademarks as part of the link without our express written consent.
- (l) You agree not to make unsolicited offers, advertisements, proposals, or send junk mail or spam to other users of the Biarri Site. This includes, but is not limited to, unsolicited advertising, promotional materials or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures.
- (m) You agree not to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Biarri Site or any part thereof, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.
- (n) You agree not to modify, adapt, translate, or create derivative works based upon the Biarri Site or any part thereof, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.
- (o) You agree not to impersonate another person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity.

3.17. Password. If you register you will be asked to provide a password. As you will be responsible for all activities that occur under your password, you should keep your password confidential. You are solely responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. If you have reason to believe that your account is no longer secure (for example, in the event of a loss, theft, or unauthorized disclosure or use of your account ID or password), you shall immediately notify Biarri. You may be liable for the losses incurred by Biarri or others due to any unauthorized use of your account.

3.18. Dealings with Advertisers. Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through the Biarri Site are solely between you and such advertiser. YOU AGREE THAT BIARRI WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS THE RESULT OF ANY SUCH DEALINGS OR AS THE RESULT OF THE PRESENCE OF SUCH ADVERTISERS ON THE BIARRI SITE.

3.19. Links and Third Party Websites. Biarri or third parties may provide links on the Biarri Site to other sites including the content therein ("Reference Sites"). Biarri has no control over such

Reference Sites or content, and therefore makes no claim or representation regarding, and expressly disclaims responsibility for, the accuracy, quality, legality, nature, availability, or reliability of Reference Sites or content linked to by the Biarri Site. Biarri provides links to you only as a convenience, and the inclusion of any link on the Biarri Site does not imply our affiliation, endorsement, or adoption of the linked site or any information therein. ACCESS AND USE OF REFERENCE SITES, INCLUDING THE INFORMATION, MATERIAL, PRODUCTS, AND SERVICES ON REFERENCE SITES OR AVAILABLE THROUGH REFERENCE SITES, IS SOLELY AT YOUR OWN RISK. Our terms and policies do not govern your use of any site other than the Biarri Site. You should review applicable terms and policies, including the privacy and data gathering practices, of any Reference Sites.

3.20. Availability of Service. Biarri may make changes to or discontinue any of the media, web communities, products, or services available within the Biarri Site at any time, and without notice. The media, products, or services on the Biarri Site may be out of date, and Biarri makes no commitment to update these materials on the Biarri Site.

3.21. User Disagreements. You are solely responsible for your involvement with other users of the Biarri Site. Biarri reserves the right, but has no obligation, to monitor disagreements between you and other users. BIARRI DISCLAIMS ALL LIABILITY RELATED TO ANY USER DISAGREEMENT.

3.22. Terms of Use Violations; Termination.

- (a) Biarri. You agree that Biarri, in its sole discretion and for any or no reason, may terminate any account (or any part thereof) you may have through the Biarri Site or your use of the Biarri Site, and remove and discard all or any part of your account or any User Submission, at any time. You agree that your access to the Biarri Site or any account you may have or portion thereof may be terminated without prior notice, and you agree that Biarri shall not be liable to you or any third-party for any such termination. These remedies are in addition to any other remedies Biarri may have at law or in equity.

- (b) User. If you are dissatisfied with the Biarri Site, please let us know at info@Biarri.com. Your input is valuable to us. Your only remedy with respect to any dissatisfaction with (i) the Biarri Site, (ii) any term of these Terms, (iii) any policy or practice of Biarri in operating the Biarri Site, or (iv) any content or information transmitted through the Biarri Site, is to terminate these Terms and your account. You may terminate these Terms at any time by closing your account and discontinuing your use of any and all parts of the Biarri Site and providing notice of termination at info@Biarri.com.

4. General

4.1 Website Disclaimer. You assume all risks concerning the suitability and accuracy of the information within the web site and publications. The web site (and pages) and publications may contain technical inaccuracies or errors. Biarri bears no responsibility for and disclaims all liability for any such inaccuracies, errors, or omissions in the web site and publications and in any other referenced or linked documents. Biarri will, from time to time, alter information in the web site which contains pricing, market information, and/or product specifications, and these product offerings may not be relevant to, or available in, your country.

4.2 Links to Other Websites and Biarri. Website General Information. The website contains links to other third-party sites which are not under the control or responsibility of Biarri. Biarri is not responsible for the content on any linked web sites. If you access a third-party site from this website, then you do so at your own risk. Biarri is only providing these links for a convenience to users. The inclusion of any link does not imply that Biarri is endorsing or is accepting any responsibility for the content on those third-party sites. The Biarri website will contain information as a guide only and is not legal, taxation, financial or investment advice and is not suitable to be relied on by you as such advice. You should obtain professional legal, financial and investment advice.

4.3 Liability Use of Biarri Online Services shall be at the Subscriber's own risk. Biarri is not responsible for any adverse consequences arising out of the use of the Services. You agree to indemnify, defend, and hold harmless Biarri from and against any and all claims, proceedings, damages, liability and costs (including reasonable solicitors fees) incurred by Biarri as a result of any claim arising from your violation of the Terms and Conditions, State or Commonwealth law or regulations, or any third party's rights including but not limited to infringement of copyright, violation of any proprietary right and invasion of privacy rights. These obligations survive termination of the Service. Biarri will not accept liability for failures in providing Services which are outside normal usage or which occur due to force majeure, matters outside Biarri's control or which are not reasonably foreseeable including an act of God, war, terrorism and civil disobedience.

4.4 Disclaimer of Warranties The Biarri Online Services (including all content, software, functions, and operational hosting services) are provided "as is", without warranty of any kind. Biarri expressly disclaims all warranties of any kind, whether express or implied, including without limitation, title, security, accuracy, uninterrupted timely and error free service, errors in software will be corrected, service will meet user requirements, damages or injury caused by any failure of performance, computer virus, communication failure and unauthorised access.

4.5 Biarri Proprietary and Confidential Information You acknowledge and agree that the Biarri Online Services contain proprietary and confidential information that is protected by intellectual property and other laws. You agree not to loan, modify, lease, sell, distribute or create derivative works based on the Service.

4.6 You agree not to use or display any Biarri trademarks, logos, product and services names or other Biarri material of any form (including any derivations) without our written approval. If you do so we have the right to terminate this agreement or halt supply of the service or both at our discretion.

4.7 Transferability You may not assign, sell, distribute, lease, rent, lend, sublicense, or transfer the Subscription Services or this licence (subject to the prior written consent of Biarri)

4.8 Not Used

4.9 If you instruct us to mark any information on our service for deletion (or deactivation) you acknowledge you are instructing us and authorise us to delete it permanently at a time or date of our choosing. If you instruct us to delete information and wish to change or revoke that instruction you acknowledge that a) you must make that specific request in writing; and b) we do not guarantee the ability for us to restore that information as it has been permanently deleted; and

c) we may charge you (and you are obliged to pay) professional services hourly rates (similar to any other tier one finance or technology professional services rates) for any investigation and also for any attempt at restoring any information; and d) we may provide you that information in a form of our choosing although we will normally restore it inside the application.

4.10 You agree that our data management practices (including but not limited to marking data for deletion, permanent data deletion, restoration, backup, indexing, retrieval, archiving, importing, exporting or other data copying, moving or protecting services) may not be appropriate for you or your data management responsibilities and that our processes for data management may change at our sole discretion.

4.11 You agree that we may use materials, quotes from correspondence and from support conversations and any other interactions by you with our products and services including web click streams on our web site customer testimonials pages and web (and other) support knowledge base forums and related marketing material online and in other forms at our sole discretion. You agree this material we are permitted to use includes your Internet addresses (as email addresses and web addresses and any other forms including messaging) that you choose to supply us in any way as well as linking to those addresses such as your website from our website and reproducing carefully selected appropriate public material from your website including images, logos, brands and the like from your website on our customer testimonials website page and also in related places and materials both online and in other forms including directories that we publish at our sole discretion. You acknowledge you are not entitled to any payment for use of this material. We acknowledge that we will not claim any portion of revenue that you may derive from from online traffic (also known as web visitors) you may receive from this free advertising unless you are notified by us in writing in advance of such claim.

5 Support Service

5.1 Support types Paid Support – encompassing product use support and technical support. Technical Support – only covers assistance where technical issues arise for the product such as defects. Biarri provides comprehensive online help screens. Further product use support is available from Biarri staff at Support Service rates or under a Support contract option.

5.2 Limit of service for Paid Support Biarri reserves the right to limit the time spent on email and telephone support calls to 10 minutes or less for a single support enquiry at their discretion. If Biarri deems the Support Service is being used in an unethical, abusive or fraudulent manner then Biarri may terminate the service. Support is only available while an online service is current and paid in full. Assistance in how to use the Biarri online service should not be understood to be business advice but rather as general educational information that may or may not meet your specific requirements. The Biarri Support Service is for basic usability and functionality inquiries. Internet, network, hardware, software inquiries relating to third party providers cannot be resolved by Biarri. Our Support Consultants will deem if the inquiry falls within the nature of the Biarri Support Service. Support consultants availability and response times may be affected by call or email volumes, server maintenance and upgrades relating to new releases.

5.3 You agree to provide the Service Team access to your information in order to resolve support issues. This will normally be granted by you in writing on a case by case basis either via email or

via an invitation sent using the system or via other written means however Biarri reserves the right to access without your specific approval if it is deemed necessary by Biarri.

Privacy Policy

Note Carefully in Respect to Personal Information

This document relates to your personal information, collected by Biarri as part of the Subscriber sign up process and your use of Biarri services, and held by Biarri as part of our day-to-day business dealings with you. Some of the personal information that Biarri holds may be the same information as that which you enter in your Biarri financial database, however our information is not collected only from that source. Only you and your nominated representatives (which explicitly includes Biarri employees) have access to your financial database under normal operational circumstances with the exception of summarised (anonymous) industry wide benchmarking information for use in our research department (which will not have enough detail to identify underlying individuals or individual businesses under any circumstances) and associated research subscribers.

Collection Statement

Biarri ("we", "our") provides services and products in the accounting and information technology industries. Part of this service provision requires us to protect your privacy. From 21 December 2001 the Commonwealth Privacy Act contains new sections that we are bound by. They concern a number of principles in relation to the protection of your personal information and in how we must deal with our customers in relation to this information. Personal information held by Biarri may include your name, current and previous addresses, telephone/mobile numbers, e-mail address, bank account and credit card details, details of your services and information we require to perform our services for you. Sensitive personal financial information entered into Biarri's online accounting and wealth management products, will not be used or disclosed by Biarri except as authorised by you to perform our services for you and to provide summarised anonymous benchmarking data across all our clients. Access to this information by your professional advisors or other representatives can only be granted by you. Should you choose not to provide personal information we may not be able to provide you with the services you require or at a sufficient level that we regard as important for performing at best practice and as such we reserve the right to terminate the supply of this service to you.

How We Collect Your Personal Information

We may collect personal information -

- In conversations with you and your employees, in person or by e-mail, fax and telephone;
- From third parties such as your employees, your accountant, related companies, credit reporting agencies or your representatives
- From publicly available sources of information
- When we are required to do so by law
- From our own records of your usage of Biarri services

How We Use Your Personal Information

Your personal information may be used to:

- Provide products and services to you
- Collect payments and to administer your account
- Provide you with updated or new information about our products or services
- Conduct creditworthiness checks and/or fraud checks
- For development of existing and new products and services
- Maintain and update our business infrastructure and systems
- Actively promote our other products and services to you. If you do not wish to receive such communications please advise us.
- For research into our client base and for related purposes by our research team including as aggregated (anonymous) benchmarking data.

When We May Disclose Your Personal Information

In providing our products and services, or collecting and using your personal information, we will always keep your data private to the maximum extent commercially practical possible. In the normal course of business and in order to provide your service we may be required to disclose some of your personal information to organisations outside Biarri. Such organisations may include:

- Our outsourced service providers which are always carefully selected by us
- Your legal, accounting, financial or other professional advisors if you agree as part of the service
- Credit- and/or fraud-reporting agencies if you use the service for making financial transaction instructions
- Organisations providing you with credit or financing
- Our legal, accounting, financial or other professional advisors and bankers
- Regulatory, government and other authorities as required by law
- Our subsidiaries and closely related organisations
- Other organisations involved in managing our trade receivables, business, financial affairs
- Other organisations subscribing to our client base research data which will be aggregated and anonymous

Accuracy of Your Personal Information

We take reasonable precautions to make sure that the personal information we hold is accurate and up-to-date. We appreciate notification of errors, omissions or changes in your personal information. This is especially important for information required for us to communicate with you, such as a change in name, email, phone or address.

Security of Your Personal Information

Biarri takes reasonable steps that your personal information is protected from misuse, loss, unauthorised access, modification or disclosure. Some notable measures to ensure the security of your personal information include: Secure Socket Layer (SSL) connection encryption; and regular backups of the database. The security of this information is also dependent on your own measures to protect your Biarri usernames, email addresses and passwords from disclosure and unauthorised use.

Access to Your Personal Information

You have the right to access any of your personal information that we hold, with some exceptions as allowed by law. To obtain a copy of this information, write to us requesting the information and we will provide it to you. Biarri reserves the right to charge a reasonable fee for the provision of this information.

Your Authority

By continuing to use our products or services or website you consent to Biarri maintaining, using and disclosing your personal information as described in this document for a period of no less than seven years from the date of your last use of the system (or the date of the last use of the system by any user under your subscription which ever is the latest).

Fair Play Promise

Our Fair Play Promise is a policy that ensures Biarri delivers you consistent value and service as a paying subscriber. We will -

1. Share the upside with you wherever reasonably possible as the cost of our business inputs change up and down over time.
2. Increase limits (you get more for your subscription) or reduce prices (you pay less) or provide more bundled features (your get more functionality or tools) if our business inputs get cheaper. If a resource we use to provide you with this service (for example computer hard disk space and the cost of backing it up) gets less expensive over time then we will try to automatically share that price reduction with you by reducing your next subscription cost or by increasing the amount of resources you are allowed to use at the existing price.
3. Keep you informed of alternative subscription plans so you can meet your needs better for example to downgrade or upgrade based number of staff requiring access to financial records.
4. Limit the resources (such as disk space or other resources) you are allowed to use to a reasonable amount for the subscription level you are paying for.
5. Set the limit based on reasonable averages for other users like you.
6. Allow you to add users as long as the number of users added doesn't exceed a reasonable level of users when compared to the average number of active users we see across all our subscribers..
7. Set limits for the common good in order to prevent one user inadvertently using excessive resources that should be shared with other users.

8. Reserve the right to terminate service to you if you exceed your limits or abuse the service or our staff or communication channels in any way.
 9. Tell you well in advance (normally) if you breach any limits and we will give you the option of reducing your usage back below the limit or upgrading to a more appropriate plan.
 10. Be flexible and try to give you the benefit of the doubt so we will normally not prevent you doing business if you breach limits briefly and return to within limits in a reasonable time.
 11. We reserve the right to vary prices or features for all customers (including free users) at any time but will always try to give you reasonable notice and try to improve your service overall rather than reduce it.
 12. Monitor your use of the system and ensure allocation of resources between user is fair using [points](#) which may be adjusted at our discretion in the event you abuse the system.
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Subscription Agreement

1. Indemnification; Hold Harmless. You agree to indemnify and hold harmless Biarri, and its parent, subsidiaries, affiliates or any related companies (including those which share substantially common ownership), and the officers, directors, employees, agents and representatives of any of them from any and all claims, losses, obligations, damages, liabilities, costs, debt, and expenses (including attorney's fees) arising out of (i) your use or misuse of the Biarri Site; (ii) your User Submissions, including Biarri's use, display or other exercise of its license rights granted herein with respect to your User Submissions; (iii) your violation of these Terms; (iv) your violation of the rights of any other person or entity, including claims that any User Submission infringes or violates any third party intellectual property rights; (v) your breach of the foregoing representations, warranties, and covenants; and (vi) any unauthorized use of your account not caused by Biarri. Biarri reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Biarri. Biarri will use reasonable efforts to notify you of any such claim, action, or proceeding upon becoming aware of it.

2. Disclaimers; No Warranties.

(a) **Acknowledgement.** YOU EXPRESSLY ACKNOWLEDGE THAT AS USED IN THIS SECTION 2, THE TERM BIARRI INCLUDES BIARRI'S OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, AFFILIATES, AND SUBCONTRACTORS.

(b) **No warranties.** TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, BIARRI DISCLAIMS ALL WARRANTIES, STATUTORY,

EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM BIARRI OR THROUGH THE BIARRI SITE, WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

· (c) **"As is" and "As available" and "With All Faults."** YOU EXPRESSLY AGREE THAT THE USE OF THE BIARRI SITE IS AT YOUR SOLE RISK. THE BIARRI SITE, USER SUBMISSIONS, NON-BIARRI CONTENT, AND ANY OTHER THIRD-PARTY MEDIA, CONTENT, SOFTWARE, SERVICES OR APPLICATIONS MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE BIARRI SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE", "WITH ALL FAULTS" BASIS AND WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED.

· (d) **Website Operation and Non-Biarrri Content.** BIARRI DOES NOT WARRANT THAT THE BIARRI MATERIALS, USER SUBMISSIONS, NON-BIARRI CONTENT, BIARRI SITE, OR ANY OTHER INFORMATION OFFERED ON OR THROUGH THE BIARRI SITE OR ANY REFERENCE SITES WILL BE UNINTERRUPTED, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS AND DOES NOT WARRANT THAT ANY OF THE FOREGOING WILL BE CORRECTED.

· (e) **Accuracy.** BIARRI DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE BIARRI SITE OR ANY REFERENCE SITES IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

· (f) **Harm to Your Computer.** YOU UNDERSTAND AND AGREE THAT YOU USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN INFORMATION, MATERIALS, OR DATA THROUGH THE BIARRI SITE (INCLUDING RSS FEEDS) OR ANY REFERENCE SITES AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM) OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF SUCH MATERIAL OR DATA.

3. Limitation of Liability and Damages.

· (a) **Limitation of Liability.** UNDER NO CIRCUMSTANCES, AND UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL BIARRI OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD PARTY PARTNERS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, DATA OR USE OR COST OF COVER) ARISING OUT OF OR RELATING TO THESE TERMS OR THAT RESULT FROM YOUR USE OR THE INABILITY TO USE THE BIARRI

MATERIALS AND USER SUBMISSIONS ON THE BIARRI SITE OR ANY REFERENCE SITES, THE BIARRI SITE ITSELF, OR ANY OTHER INTERACTIONS WITH BIARRI, EVEN IF BIARRI OR A BIARRI AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

· (b) **Limitation of Damages.** IN NO EVENT SHALL BIARRI OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD PARTY PARTNERS, LICENSORS OR SUPPLIERS' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF THE BIARRI SITE (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, OR OTHERWISE) EXCEED THE GREATER OF ONE HUNDRED DOLLARS (\$100 AUSTRALIAN) OR FEES PAID IN THE PRECEDING TWELVE (12) MONTHS.

· (c) **Reference Sites.** THESE LIMITATIONS SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF ANY PRODUCTS OR SERVICES SOLD OR PROVIDED ON ANY REFERENCE SITES OR OTHERWISE BY THIRD PARTIES OTHER THAN BIARRI AND RECEIVED BY YOU THROUGH OR ADVERTISED ON THE BIARRI SITE OR RECEIVED BY YOU THROUGH ANY REFERENCE SITES.

4. Limitations by Applicable Law; Basis of the Bargain.

· (a) **Limitations by Applicable Law.** CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF YOU RESIDE IN SUCH A JURISDICTION, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. THE LIMITATIONS OR EXCLUSIONS OF WARRANTIES, REMEDIES, OR LIABILITY CONTAINED IN THESE TERMS APPLY TO YOU TO THE FULLEST EXTENT SUCH LIMITATIONS OR EXCLUSIONS ARE PERMITTED UNDER THE LAWS OF THE JURISDICTION IN WHICH YOU ARE LOCATED.

· (b) **Basis of the Bargain.** YOU ACKNOWLEDGE AND AGREE THAT BIARRI HAS OFFERED ITS PRODUCTS AND SERVICES AND ENTERED INTO THESE TERMS IN RELIANCE UPON THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN, THAT THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND BIARRI, AND THAT THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN YOU AND BIARRI. YOU ACKNOWLEDGE AND AGREE THAT BIARRI WOULD NOT BE ABLE TO PROVIDE THE BIARRI SITE TO YOU ON AN ECONOMICALLY REASONABLE BASIS WITHOUT THESE LIMITATIONS.

5. Miscellaneous.

- (a) **Notice.** Biarri may provide you with notices, including those regarding changes to these Terms, by email, regular mail, or postings on the Biarri Site. If Notice is by e-mail or mail, it will be provided to the e-mail or regular mailing address provided by you with your account information and it is your responsibility to update such account information for any changes. Notice to you will be deemed given twenty-four hours after email is sent, unless Biarri is notified that the email address is invalid, and if through postal mail, three days after the date of mailing. You may provide Biarri with notices only by mail to the address indicated in subsection l below.
- (a) **Governing Law.** These Terms shall be governed by and construed in accordance with the laws of the State of Queensland, without giving effect to any principles of conflicts of law.
- (a) **Jurisdiction.** You agree that any action at law or in equity arising out of or relating to these Terms or the Biarri Site shall be filed only in the state of Queensland and you hereby consent and submit to the personal and exclusive jurisdiction and venue of such courts for the purposes of litigating any such action.
- (a) **Waiver.** A provision of these Terms may be waived only by a written instrument executed by the party entitled to the benefit of such provision. The failure of Biarri to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision.
- (a) **Severability.** If any provision of these Terms shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.
- (a) **Assignment.** The Terms and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Biarri without restriction. Any assignment attempted to be made in violation of these Terms shall be void.
- (a) **Independent Contractor.** You agree that no joint venture, partnership, employment, or agency relationship exists between you and Biarri as a result of these Terms or use of the Biarri Site. You further acknowledge that by submitting User Submissions or other Non-Biarri Content, no confidential, fiduciary, contractually implied or other relationship is created between you and Biarri other than pursuant to these Terms.
- (a) **Survival.** Sections “API and Map Data Downloads”, “User Submissions”, “User Disagreements”, “INDEMNIFICATION; HOLD HARMLES”, “Disclaimers; No Warranties”, “Limitation of Liability and Damages”, “Limitations by Applicable Law: Basis of the Bargain” and “Miscellaneous” will survive any termination of these Terms or your account whether by you or Biarri.
- (a) **Headings.** The heading references herein are for convenience purposes only, do not constitute a part of these Terms, and shall not be deemed to limit or affect any of the provisions hereof.

· (a) **Entire Agreement.** This is the entire agreement between you and Biarri relating to the subject matter herein and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter. These Terms shall not be modified except in a writing, signed by both parties, or by a change to these Terms or Guidelines made by Biarri as set forth in Section 3 above.

· (a) **Claims. YOU AGREE THAT ANY CAUSE OF ACTION BROUGHT BY YOU ARISING OUT OF OR RELATED TO THE BIARRI SITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.**

· (a) **Disclosures.** The services hereunder are offered by Biarri, located at 12 Bowley Street, Hendra, Brisbane QLD, Australia, 4011 email: info@Biarri.com, telephone: +61 408701527.

6. Independent Investigation

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT WE MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEB SITES THAT ARE SIMILAR TO OR COMPETE WITH YOUR WEB SITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE Partner PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

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