

# GARAGE SALE TRAIL FOUNDATION LTD

## TERMS & CONDITIONS

(last updated 18 August 2024)

Garage Sale Trail aims to promote reusing, recycling and waste reduction by working with Australian local governments and encouraging participants to hold garage sales on the same two weekends of the year.

By participating in a Garage Sale Trail Event You intend to sell secondhand goods of a various nature, and other goods (“Goods”). Sellers can participate by registering their garage sale using [www.garagesaletrail.com.au](http://www.garagesaletrail.com.au)

### 1. Definitions and Interpretation

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#### 1.1 Definitions

1. In these Terms and Conditions, references to the following words have the following meanings:

**Agreement** means the agreement between Garage Sale Trail and You as set out in these Terms and Conditions;

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*

**Claims** means actions, suits, causes of action, arbitrations, debts, dues, costs, claims, demands, verdicts, orders and judgments either at law or in equity or arising under statute and whether or not the matters giving rise to those claims are known to the parties at the date these Terms and Conditions are entered into;

**Event** means any garage sale or other activity registered or listed on the Garage Sale Trail website.

**“Garage Sale Trail” or “us” or “we” or “our”** means Garage Sale Trail Foundation Ltd (ACN 154 116 515) of Level 3, 85 William Street, Darlinghurst, NSW 2010;

**Garage Sale Trail Weekends** means the 9-10 and 16-17 November 2024

**Goods** means any goods offered, sold or advertised for sale at an Event;

**Laws, Regulations and Guidelines** means all applicable Local, State and Federal laws, regulations, rules and ordinances, including, without limitation:

1. privacy laws, intellectual property laws, anti-discrimination laws and related regulatory requirements;
2. the Australian Consumer Law, including but not limited to adhering to obligations in respect of consumer guarantees;
3. the *Competition and Consumer Act 2010 (Cth)*, including in respect of product safety standards and bans on unsafe goods;
4. mandatory product standards relating to safety and information, including but not limited to the standards relating to:
  - i. the sale of electrical goods, and relevant requirements to inform buyers and attach labels to electrical goods where the goods are secondhand, and whether the goods have been tested;
  - ii. Aquatic toys, Baby bath aids, Baby dummies and dummy chains, Baby walkers, Balloon blowing kits, Basketball rings & backboards, Bean bags, Bicycle helmets, Bicycles, Blinds, curtains and window fittings, Bunk beds, Child restraints for use in motor vehicles, Decorative alcohol fuelled devices, Disposable cigarette lighters, Elastic luggage straps, Exercise cycles, Folding cots, Hot water bottles, Household cots, Moveable soccer goals, Portable aerosol fire extinguishers, Portable non-aerosol fire extinguishers, Portable ramps for motor vehicles, Portable swimming pools, Prams & strollers, Projectile toys, Recovery straps for motor vehicles, Reduced Fire Risk Cigarettes, Self-balancing scooters, Support stands for vehicles, Swimming & flotation aids, Swimming & flotation aids, Toys containing lead & other elements, Toys containing magnets, Toys for children up to and including 36 months of age, Treadmills, Trolley jacks, Vehicle jacks;
5. Local Council regulations and rules regarding garage sales on private and public property;
6. laws relating to secondhand dealers and pawnbrokers (if applicable to You);
7. food safety and labelling laws to the extent that You sell any food items at the Event;
8. public health orders, regulations and / or laws including but not limited to those pertaining to Covid-19.

**Loss** means, in relation to any Person, any damage, loss, cost (including legal fees and costs on a full indemnity basis), expense or liability incurred by the Person or any Claim, action, proceeding or investigation made against the person however arising and whether present or future, fixed or unascertained, actual or contingent, and includes consequential loss.

**Person** means an individual, corporation, government or governmental agency, estate, trust, partnership, association or other legal or commercial entity or undertaking.

**Premises** means the place at which an Event takes place.

**Active Participants** means any person who registers an Event via the Website and either offers or sells Goods at an Event, whether the Event takes place at their own premises or those of a Host Participant.

**Host Participants** means any person who hosts an Event at their premises and permits another person to offer or sell goods at these premises, including a person who has not registered for the Event via the Website.

**Individual Participants** means any person who is permitted to sell Goods at a Host Participant's premises but has not registered for the Event via the Website.

**You, Your or User** means:

- (a) Users who register an account on the Website;
- (b) Active Participants; and
- (c) Host Participants.

**Website** means the [www.garagesaletrail.com.au](http://www.garagesaletrail.com.au), which is licenced, operated and maintained by Garage Sale Trail.

## 1.2 Interpretation

In these terms and conditions unless the context otherwise requires:

- (a) words importing the singular number include the plural number and vice versa;
- (b) words importing persons include firms, companies and corporations and vice versa;
- (c) references to numbered clauses, paragraphs and schedules are references to the relevant clause or paragraph in or schedule to this agreement;
- (d) any obligation on any party to this Agreement not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- (e) the headings to the clauses and schedules of this agreement are not to affect the interpretation of these terms and conditions;
- (f) any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or bylaw made under that enactment; and
- (g) the word "including" (and related forms including "includes") means "including without limitation".

## 2. AGREEMENT

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2.1 By creating an account via the Website, and otherwise when You use the Website, You are entering into a legally binding agreement with Garage Sale Trail. You acknowledge that You have read and understood these Terms and Conditions and agree to be bound by the same.

2.2 You:

- (a) will comply with all applicable laws and these Terms and Conditions, as amended from time to time; and
- (b) acknowledge and agree that Garage Sale Trail retains all rights over the Website and the Event including but not limited to intellectual property rights and no right, title or interest in the Website or the Event is transferred under these Terms and Conditions or otherwise.

2.3 Garage Sale Trail may:

- (a) alter the date of the Garage Sale Trail Weekend(s) for any reason on written notice to participants. Garage Sale Trail will not be liable to You for any Loss or Claims arising from or in connection with a change of the date of the Garage Sale Trail Weekend(s);
- (b) update these terms at any time in accordance with this Agreement. Users will be notified of any changes via email or through the website. Your continued use following any updates constitutes acceptance of the revised terms.

2.4 A Host Participant for an Event via the Website:

- (a) will be solely liable for all acts or omissions of any Individual Participants who attend the Event and sell goods on Your Premises;
- (b) will ensure that all Individual Participants act in accordance with these Terms and Conditions.

## 3. PARTICIPATION AND OBLIGATIONS OF PARTICIPANTS

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3.1 Users agree and acknowledge that by registering on the Website and/or participating in an Event, that they:

- (a) are 18 years of age or older and able to enter into contracts voluntarily;
- (b) are not currently restricted from access to the Event, or not otherwise prohibited from being an Active Participant or Host Participant;
- (c) are not a competitor of Garage Sale Trail;
- (d) have full power and authority to enter into this Agreement and doing so will not violate any other agreement to which You are a party;
- (e) will not use the Website and/or participate in the Event except as provided for in these Terms and Conditions;
- (f) legally own and have the right and authority or explicit consent to sell the Goods and will ensure the same of any Individual Participants where the User is the Host Participant; and
- (g) have all necessary licences in place and meet all legal requirements to enable the sale of the Goods.

3.2 Users agree and acknowledge that by registering on the Website and/or participating in an Event, that they will not:

- (a) duplicate, license, sublicense, publish, broadcast, transmit, distribute, perform, display, sell, rebrand, or otherwise transfer information found on the Website except as permitted in these Terms and Conditions or as expressly authorised by Garage Sale Trail in writing;
- (b) engage in any action that directly or indirectly interferes with or disrupts the proper working of the Website and/or the Event, including but not limited to unsolicited communications to other Active Participants or Host Participants; or
- (c) use Garage Sale Trail's brand, logos, trademarks and other intellectual property except as expressly permitted or provided by Garage Sale Trail in writing prior to such use (including as set out on the Website).

3.3 **Individual Participants must:**

- (a) participate in the Event and sell the Goods in good faith;
- (b) comply with all applicable Laws, Regulations and Guidelines;
- (c) provide accurate information to us for the purposes of the Event and update it as necessary;
- (d) ensure the Goods are not a banned, illegal or restricted product under relevant State or Federal laws;
- (e) take reasonable steps to ensure the Goods are not the subject of a product recall, as notified through the Australian Competition and Consumer Commission;
- (f) review and comply with notices sent by Garage Sale Trail concerning the Event, whether such notices are delivered to You directly (via electronic means or otherwise) or via a general circular to Active Participants and Host Participants on the Website or our social media platforms (to the extent that You are a user of our social media platforms);
- (g) clean up and responsibly dispose of all of Your waste and unsold Goods at the end of the Event using the information provided on the Website or otherwise by us;
- (h) not engage in any illegal dumping of Goods during or at the end of the Event;
- (i) keep noise to a minimum during, leading up to and packing up after the Event;
- (j) not cause unnecessary disruption or nuisance to any third party in relation to an Event;
- (k) not leave items outside or on the kerb immediately after the Event or overnight; and
- (l) obtain any necessary permits, licences or permissions to sell food items at Your premises during the Event, to the extent that You elect to do so.

3.4 In relation to the Event, You must not:

- (a) be false, inaccurate, misleading or deceptive to any person;
- (b) act dishonestly or inappropriately;
- (c) be fraudulent or involved in the sale of counterfeit or stolen items;
- (d) sell any alcohol to any person during the Event;
- (e) consume any alcohol in alcohol free zones;
- (f) violate any applicable law, statute, ordinance or regulation; or
- (g) do, or fail to do, anything that may cause lead to any Claim or liability for us or cause us to suffer Loss in connection with the Event.

3.5 This clause 3 survives termination of the Agreement

## **4. PREMISES**

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- 4.1 In relation to the Event, You acknowledge and agree that:
- (a) You own or have been granted the right or licence to use or occupy the premises from which You intend to sell the Goods, as listed on the Website, during the Event, whether that property is private or public property;
  - (b) Your selling of the Goods and participating in the Event does not breach any agreement that You may have with a third party or infringe any third party rights with respect to the Premises;
  - (c) You have sought and obtained all relevant authorities, consents or permissions (including from any Local Council, landlord or strata body corporate) with respect to using the Premises and selling Goods from the Premises;
- 4.2 For the avoidance of doubt, we do not condone Users holding Events without the proper authority from the relevant Local Governmental Authority and/or Council, where it is necessary. If You sell the Goods without such authority, Garage Sale Trail will in no way be held responsible or liable and reserves the right to terminate this Agreement.
- 4.3 This clause 6 survives termination of the Agreement.

## **5. INFORMATION AND WEBSITE**

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- 5.1 We may modify, replace, refuse access to, suspend or discontinue the Website partially or entirely, or change and modify any details relating to an Event in our absolute discretion.
- 5.2 By providing information to us via the Website ("Your Information"), You represent and warrant that:
- (a) You are entitled to submit that information; and
  - (b) the information is accurate, not confidential and not in violation of any contractual restrictions or other third-party rights.
- 5.3 By providing Your Information, You acknowledge that:
- (a) it is Your responsibility to keep Your information accurate and update to date;
  - (b) Garage Sale Trail assumes no responsibility for Your Information being inaccurate or out of date.
- 5.4 By applying to be an Active Participant or Host Participant, You grant Garage Sale Trail an irrevocable licence to publish Your Information in relation to Your listing on the Website and as part of Garage Sale Trail or Event material (whether hard copy or electronic), for promotional, advertising, marketing and/or related purposes.

## **6. CONTENT AND WEBSITE**

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- 6.1 You acknowledge and agree that You are solely responsible for the information (including Your Information), data and other content You provide to Garage Sale Trail for inclusion on the Website or that You post, upload, transmit or otherwise make available on the Website or to Garage Sale Trail ("Content").
- 6.2 You warrant that no Content is or could reasonably be considered to:
- (a) be inappropriate, inaccurate, offensive or objectionable;
  - (b) offend other Active Participants or Host Participants or Users of the Website or bring the Website or Garage Sale Trail into disrepute in any way;
  - (c) falsely state, impersonate or otherwise misrepresent Your identity, or misrepresent Your details including current address;
  - (d) be unlawful or potentially or actually libellous, abusive, obscene, discriminatory, offensive or otherwise objectionable;
  - (e) include information that You do not have the right to disclose or make available under any law or under contractual or fiduciary relationships or is otherwise confidential;
  - (f) contain software viruses, worms, or any other computer code, files or programs that could interrupt, destroy or limit the functionality of the Website; or
  - (g) infringe any third party's intellectual property rights.
- 6.3 Garage Sale Trail may in its absolute discretion remove, modify, edit or reject any Content or material published on the Website from time to time in its absolute discretion as it deems fit and without any notice to You. Garage Sale Trail retains complete editorial control over the Website at all times.
- 6.4 You must not use the Website:

- (a) in any way that causes, or may cause, damage to the Website or impairment of the availability or accessibility of the Website;
- (b) in any way which is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
- (c) to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, computer virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software;
- (d) to conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Website without Garage Sale Trail's express written consent;
- (e) to transmit or send unsolicited commercial communications;
- (f) for any purposes related to marketing without Garage Sale Trail's express written consent.

## **7. PRIVACY**

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7.1 You acknowledge and consent:

- (a) that in using the Website, and participating in the Event, You will provide to Garage Sale Trail certain personal information. Our Privacy Policy forms part of these Terms and Conditions and You acknowledge and agree to the way in which we collect, use and disclose Your personal information set out in the Privacy Policy. For more information on our information collection and handling practices, please view our Privacy Policy [here](#);
- (b) to Garage Sale Trail or its local government or commercial partners, using the personal information provided by You to contact You regarding anything connected with the Event or the Website, and to contact You for promotional and marketing purposes including but not limited to other services offered by Garage Sale Trail or its affiliates and partners, and marketing and promotional campaigns. You can revoke your consent to us contacting you by providing notice to us.

## **8. OUR ROLE**

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8.1 We provide the Website and encourage Users participation in Events.

8.2 By accessing the Website and participating in Events, You acknowledge and agree that Garage Sale Trail:

- (a) is not a party to any transaction that takes place at an Event and is excluded from any liability in connection with any transaction that takes place at an Event;
- (b) does not guarantee the accuracy of Content posted to the Website by Users;
- (c) is not responsible for and has not control over any communications between You and other Users; and
- (d) makes no warranties to You in relation to such content or communications prepared or shared by other Users.

8.3 Garage Sale Trail:

- (a) is not a party to any transaction relating to the sale of Goods by You. You bear sole responsibility for the terms of any contract You enter into with any third party before, during or after the Event, relating to the sale of Goods. Garage Sale Trail does not assume any involvement in, responsibility or liability for Loss or Claims in relation to such transactions;
- (b) does not make any warranty or representation to any third party in respect of the Goods You sell at the Event, including but not limited that in relation to the suitability, quality, fitness for purpose, safety or legality of the Goods.
- (c) does not warrant that access to or use of the Website will be uninterrupted, free from error or that any material published on the Website is free from errors, viruses, worms, trojan horses or any other harmful components. Garage Sale Trail disclaims any and all liability for any Loss or Claims in connection with any interruption to access, errors or delays in functioning of the Website for any reason.

8.4 While we take all reasonable steps to protect our Website, You acknowledge and accept the risk of any communication to or from the Website and Content published on the Website may be accessed, intercepted, used or modified by third parties.

## **9. LIABILITY AND INDEMNITY – ACTIVE AND HOST PARTICIPANTS**

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9.1 You acknowledge and agree that You:

- (a) are solely responsible for the Persons entering the Premises during or in relation to an Event, and indemnify us against any and all Claims and Loss of any nature howsoever arising in connection with such Persons including but not limited to that in relation to any death or personal injury or damage to property; and
- (b) have or will have in place appropriate and current insurance during the Event, including occupier's liability insurance and any necessary public liability insurance.

9.2 You agree to indemnify and keep indemnified Garage Sale Trail in relation to any and all Loss and/or Claims incurred or suffered by Garage Sale Trail arising directly or indirectly from or in connection with any:

- (a) breach, by You, of these Terms and Conditions;
- (b) breach of law, by You, including the *Consumer and Competition Act 2010 (Cth)* or the Australian Consumer Law;
- (c) breach of warranties, by You, in relation to Your Content;
- (d) act or omission by You in respect of any Content or other information provided by You to Garage Sale Trail; or
- (e) death or injury to persons, or damage to property, caused by any act or omission of You, or Your employees, agents, contractors or invitees;
- (f) act or omission by You in connection with the Event, including any negligence;
- (g) act or omission by any Individual Participant to the extent that You are a Host Participant.

9.3 This clause 10 survives termination of the agreement.

## **10. UNILATERAL VARIATION CLAUSE**

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10.1 You acknowledge and agree that:

- (a) we are entitled to vary these terms and conditions from time to time and without prior notice to You;
- (b) we will only exercise our right to unilaterally vary the Agreement reasonably and to the extent reasonably necessary to protect our legitimate interests, including but not limited to compliance with changes in public health orders or other regulations made by Local, State or Federal governments;
- (c) we will use our best efforts to notify You of any variation to this Agreement either by electronic mail or a notice set out on our Website;
- (d) by continuing to use our Website or participate in an Event after notice has been served by electronic mail or posted on our Website, You are deemed to accept any variation or amendment to the Agreement.

10.2 This clause does not affect any termination rights You may have under clause 10 of this Agreement.

## **11. TERM AND TERMINATION**

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11.1 You may terminate these Terms and Conditions and participation in the Event at any time for any reason by providing notice by email to Garage Sale Trail. Such termination is effective immediately.

11.2 We may terminate these Terms and Conditions and Your participation in the Event at any time if we reasonably believe that You have breached these Terms and Conditions in any way, by notice to You. Such termination is effective immediately.

11.3 Upon termination, You will lose access to the right to participate in the Event and immediately cease being either an Active Participant or Host Participant (whichever is applicable to You). In addition, Garage Sale Trail may block Your access to the Website at any time in its absolute discretion.

## **12. IMAGE CONSENT AND RELEASE**

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12.1 Regarding image consent and release, You:

- (a) consent and agree to Garage Sale Trail, its employees, contractors and other persons authorised by it, taking photographs and/or creating video recordings (inclusive of visual and audio components) of You and/or the Premises during the Event ("Images");
- (b) authorise Garage Sale Trail to publish the Images in any form, including film, video, DVD, print, audio, digital and any and all other formats and media now known or to be developed ("Materials");
- (c) acknowledge that Garage Sale Trail will own all rights, title and interest in the Images and the Materials and all copyright in the Images and Materials vests in Garage Sale Trail;
- (d) waive any and all moral rights (as that term is defined under the *Copyright Act 1968 (Cth)*) in the Images and Materials;

- (e) understand and agree that Garage Sale Trail may use the Images and Materials in any form for such lawful purposes as it deems appropriate in its absolute discretion, including but not limited to publication on the Garage Sale Trail websites, marketing and promotional materials and public relations;
- (f) understand that Materials published on the internet are accessible to all users and Garage Sale Trail has no control over the subsequent use and disclosure of the Materials;
- (g) acknowledge that You are not entitled to remuneration, royalties, commissions or any other forms of payment from Garage Sale Trail in respect of the Images or the Materials;
- (h) are not aware of anything that may restrict or prevent Garage Sale Trail from using the Images and Materials pursuant to this clause 11; and
- (i) release and hold harmless Garage Sale Trail from any and all Claims You may have or liabilities that You may incur as a result of this clause 11.

### **13. GENERAL**

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- 13.1 If any provision of these Terms and Conditions is found by a court of competent jurisdiction or arbitrator to be illegal, void, or unenforceable, it must be read down so as to render it enforceable and effective to the maximum extent possible in order to effect the intention of the provision. If this is not possible, the clause or offending part is taken to be severed from the Agreement and the remaining provisions of these Terms and Conditions will not be affected in any way.
- 13.2 Failure or delay by a party to exercise any right in respect of these Terms and Conditions does not waive that party's right to act with respect to that breach or subsequent similar or other breaches.
- 13.3 No party is or has the right to act as agent, representative or partner of another party. These Terms and Conditions do not constitute an association, agency, joint venture or partnership between any parties.
- 13.4 This Agreement does not, and is not intended to confer any rights or remedies upon any person other than the parties to the Agreement.
- 13.5 This Agreement is governed by the law of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of New South Wales.
- 13.6 We may give notice under these Terms and Conditions by means of notice on the Website, or by email to Your email address on record in Your account information. You can notify us by email at [contactus@garagesaletrail.com.au](mailto:contactus@garagesaletrail.com.au). A notice is deemed served under these terms and conditions two days after the email is sent to Your registered email address unless the sending party is notified that the email has not been delivered.