

# Partner Terms of Services

## Partners:

Welcome to buygeorgia. We are excited that you have decided to join our buygeorgia community and serve Georgians. We look forward to working with you and promoting your business to Georgians throughout our great state.

We focus on providing exceptional service to our buygeorgia community and maintaining the highest quality experience for our businesses and families. To accomplish that purpose, we require each Partner (defined below) to agree to our Terms of Services (“**TOS**”). To uphold the highest quality and reputation of buygeorgia, all Partners who apply are reviewed according to our buygeorgia program policies. We also monitor links to our Partner sites after they begin advertising with buygeorgia. If a site is found to be in violation of our policies at any time, we will warn the Partner or suspend or terminate the Partner’s membership and privileges with buygeorgia.

By electing to become a Partner Member (“**Partner**”) of the buygeorgia community and placing an order for advertising (“**Order**”) and using the buygeorgia website and other buygeorgia services (the “**Services**”), Partner and Georgia Commerce Group Inc. d/b/a buygeorgia (“**buygeorgia**”) mutually agree to be bound by these TOS which may be updated by buygeorgia from time to time without notice to Partner and that it is the Partner’s responsibility to keep up-to-date with and adhere to the policies posted here. Partner can review the most current version of these TOS at any time by visiting this portion of the website. In addition, when using buygeorgia Services, you and buygeorgia shall be subject to any posted guidelines or rules applicable to such services which may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into these TOS.

Both Partner and buygeorgia hereby agree to be bound by the following TOS:

### 1. Description of the Services

buygeorgia provides Partner certain Services to promote their business to Georgians through mechanisms which include, but are not limited to advertising on our buygeorgia website, special online promotions to our users, priority placement of Partner’s listing for search results, email blasts, links to other sites, and eNewsletters. Partner understands and agrees that the Services may include certain communications from buygeorgia, such as service announcements, administrative messages, and that these communications are considered part of buygeorgia membership and you will not be able to opt out of receiving them. Unless explicitly stated otherwise, any new features that augment or enhance the current Services, including the release of new buygeorgia properties, shall be subject to these TOS. Partner is responsible for obtaining access to the Services and that access may involve third party fees (such as Internet service provider ISP charges). Partner is responsible for those fees, including those fees associated with the equipment necessary to access the Services (such as a personal computer).

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### 2. Acceptance of Order

When accepted by buygeorgia, the Order submitted by Partner creates a contract between Partner and buygeorgia, consisting of the Order, the applicable Services and these TOS. An Order is **“Accepted”** by buygeorgia when (i) with respect to Orders submitted online, buygeorgia provides Services in response to the Order or bills Partner for payment and buygeorgia posts the order to the production website and (ii) with respect to Orders reduced to writing and signed on an approved buygeorgia form, when an authorized representative of buygeorgia delivers such form signed by Partner.

### 3. Agreement of Partner to Pay

Partner agrees to purchase and pay for the Services and for the duration specified in the Order (**“Term”**), and buygeorgia agrees to provide Services the Services in accordance with the terms hereof. Partner further agrees to pay for the Services specified in the Order and in accordance with the buygeorgia [Rate Card](#) for the applicable Services (the **"Rate Card"**) in effect on the date such Services are rendered, unless other arrangements have been agreed to by both Partner and buygeorgia in writing. Partner acknowledges receipt of the Rate Card in effect as of the date Partner acknowledges its agreement to these TOS.

### 4. Advertising Policies

In addition to the terms, provisions and conditions contained herein, these TOS are subject to buygeorgia’s advertising policies as they may be changed at buygeorgia’s discretion from time to time and without notification to Partner.

### 5. Advertising Positioning and Metrics Reporting

Except as otherwise expressly provided herein, positioning of Partner’s advertisements on any buygeorgia web page is at the sole discretion of buygeorgia. Partner acknowledges that buygeorgia has not made any guarantees with respect to usage statistics or levels of impression for any Partner advertising. Any estimated usage and/or impression statistics provided to Partner from buygeorgia are provided as a courtesy to Partner and buygeorgia shall not be held liable for any claims relating to said statistics. Any information collected by buygeorgia, or its site vendors, relating to users accessing Partner’s promotions or clicking to link to Partner’s site (including and without limitation any personally identifiable transactional data, "clickstream" data or demographic information relating to users of the site), shall be the sole property of buygeorgia, and Partner shall not obtain any rights in such information by virtue of this agreement.

### 6. Partner and buygeorgia Membership

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Partner agrees to and fully understands the following by choosing to list their business with buygeorgia:

- a. Partner must list their business with buygeorgia for a minimum of twelve consecutive (12) months (“**Membership Period**”) unless otherwise approved by buygeorgia in writing. The purpose of the twelve month membership is to ensure consistency of Partners for our buygeorgia users and community.
- b. There are three types of Partner membership (“**Partner Membership**”) and they are referred to as Basic Partner Membership (“**Basic Partner Membership**”), Advanced Partner Membership (“**Advanced Partner Membership**”), and Premium Partner Membership (“**Premium Partner Membership**”).
- c. Partner understands and agrees that Partner must first maintain a Partner Membership and be in good standing with buygeorgia in order to gain access to the other promotional Services that buygeorgia offers from time to time including, but not limited to special offers, major category premium display, sub-category premium display, eNewsletter, online promotions, etc. (“**Other Promotional Services**”).
- d. Partner agrees and understands that the Basic Partner Membership, Advanced Partner Membership, and the Premium Partner Membership include the following items listed below and that items may be added, deleted or amended to this list from time to time by buygeorgia without notice to Partner:
  - i. Partner’s listing will display for twelve (12) consecutive months on the buygeorgia website.
  - ii. Partner must choose to place their listing in one (1) Major Category (others may be purchased for a nominal fee).
  - iii. Partner may choose to place their listing in up to three (3) Sub-Categories (others may be purchased for a nominal fee).
  - iv. Partner may select several key words to highlight the features of their business in the company profile section of their listing.
  - v. Partner will be issued a secured login and password for accessing the online Partner Workbench Tool (defined below) and other secured areas of the site.
  - vi. Partner understands that there are two type of users in the buygeorgia community. A Member (“**Member**”) pays a fee to be part of the community and a Guest (“**Guest**” or “**General Public**”) does not pay a fee. Members have access to better promotions and discounts than the General Public.
  - vii. Partner agrees to provide two (2) types of online promotions to the users of buygeorgia and further agrees that at all times during the Membership Period, Partner will offer an online default promotion (“**Default Promotion**”) to both Members and the General Public:
    1. Members
      - a. The best promotions and discounts are offered to this user.
    2. General Public

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- a. The next best promotions and discounts are offered to this user.
- viii. Partner will have access to the buygeorgia Partner Workbench Tool that provides the Partner the capability to perform the following functions and that it is the responsibility of the Partner to update all Partner related information (“**Partner Workbench Tool**”):
  1. Create and Update the tagline for their business.
  2. Create and Update the detail profile for their business.
  3. Add and Update the graphics and/or pictures that are displayed with the listing subject to the buygeorgia graphics and pictures guidelines.
  4. Create and Update online promotions (including Default Promotions) for the Members and General Public users.
- e. Partner will be granted the ability to create and update online promotions via the Partner Workbench Tool:
  - i. Partner is granted a total of three (3) online promotion updates (“**Promotion Updates**”) with the Basic Partner Membership; or six (6) Promotion Updates with the Advanced Partner Membership; or twelve (12) Promotion Updates for the Premium Partner Membership. Partner further agrees and understates that:
    1. Partner agrees that at all times (100% of the time) Partner will have one (1) active Default Promotion for the Member and one (1) active Default Promotion for the General Public. The Default Promotions will remain active along with other promotions the Partner may choose to make active for the users. Partner further agrees that two (2) Promotion Updates will be used from the total Promotion Updates issued upon registration to fulfill the Default Promotion requirement and that the Default Promotions will be the first promotions made available to the users. (i.e., two from the three for the Basic Partner; two from the six for the Advanced Partner; and two from the twelve for the Premium Partner)
    2. Partner may use Promotion Updates at a time of the Partner’s choosing within the Membership Period to keep the promotions fresh for the users and create continued interest in their listing.
    3. Partner must use Promotion Updates during the Membership Period and any unused Promotion Updates, whether Promotion Updates were issued at time of registration or Promotion Updates were purchased separately, will expire and are non-transferable (in other words, “use it or lose it”).
    4. Partner further agrees that two Default Promotions will be valid throughout the Membership Period, one for Member and one for General Public and that buygeorgia is authorized to display the Default Promotions.

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5. Partner understands that additional Promotion Updates are available for purchase at a minimal fee within the Membership Period.
6. buygeorgia provides an online Partner Workbench Tool for the Partner to create and update the promotions and that it is the exclusive responsibility of the Partner to make said updates to promotions.
7. One (1) Promotion Update is deducted each time a promotion is “activated” and is posted to the production buygeorgia website. (example: Partner “activates” a promotion and then makes a change to the promotion several weeks later. The updates will be counted as follows: one (1) update for the initial activation and one (1) update for the change made several weeks later for a total of two (2) updates.)
8. Partner assumes full responsibility for providing users with any required disclosure or explanation of the various features, description, expiration dates, restrictions, rules, terms or conditions of use, directions, and details, of any goods or services described with the promotion. Partner further agrees that these same responsibilities apply to any and all information presented to users regarding the Partner’s information displayed on buygeorgia and linked to the Partner’s website from buygeorgia.
9. Partner understands that Partner’s listing will not be displayed to the users until both Default Promotions (one for the Members and one for the Guests) are activated for production by the Partner using the online Partner Workbench Tool.

### 7. Services Fees; Payment Terms

Partner agrees to pay the fees for Services (“**Services Fees**”) in advance and pay in full at the agreed upon rate set forth on the Rate Card (or by some other arrangement in writing by both Partner and buygeorgia) before Partner listing or information is posted to the buygeorgia website. If buygeorgia, in its sole discretion, extends credit to Partner and has given Partner written notice thereof, then Partner will be invoiced at the beginning of the agreement period. Payment in full of all Services Fees due shall be made to buygeorgia within thirty (30) days from the date of the invoice, which date shall be no earlier than the advertisement date specified in the agreement. Amounts paid after such date shall bear interest at the rate of one percent (1%) per month (or the highest rate permitted by law, if less).

If buygeorgia, in its sole discretion, does extend credit terms to Partner and Partner becomes delinquent with its account, the Services may be suspended at buygeorgia’s sole discretion. In the event of a suspension of the Services, upon a reactivation

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request by Partner, Partner shall pay buygeorgia a reactivation fee in addition to full payment of the outstanding balance of any Services Fees due. Reactivation of the Services will only be performed during buygeorgia's normal business hours (Monday through Friday, 9:00 am - 6:00 p.m., Eastern Time, excluding holidays). If buygeorgia collects any payment due at law or through an attorney at law or under advice there from or through a collection agency, or if buygeorgia prevails in any action to which the Partner and buygeorgia are parties, Partner will pay all costs of collection, arbitration and litigation, including, without limitation, all court costs and buygeorgia's reasonable attorneys' fees. If any Partner payment is returned for insufficient funds, buygeorgia will impose a processing charge of \$35. If two (2) or more Partner payments are returned for insufficient funds in any six (6) month period, buygeorgia in its sole discretion may require alternative payment methods for all future Partner payments including, without limitation, credit card, money order, or cashier's check.

Partner agrees and understands that once the Partner's listing is posted on the buygeorgia website, there are no refunds, exchanges, etc.

### 8. Services Fee Increases; Taxes; and Refunds

BuyGeorgia may increase the Services Fees (i) in the manner permitted in the Services Description and (ii) at any time on or after expiration of the initial Term by providing ten (10) days prior written notice thereof to Partner. The Services Fees do not include any applicable sales, use, revenue, excise or other taxes imposed by any taxing authority with respect to the Services or any software provided hereunder (excluding any tax on buygeorgia's net income). All such taxes will be added to buygeorgia's invoices for the Services Fees as separate charges to be paid by Partner. All fees are fully earned when due and non-refundable when paid.

### 9. Content Submitted or Made Available for Inclusion on the Services

buygeorgia does not claim ownership of any content the Partner submits or makes available for inclusion on the Services ("**Partner Content**"). buygeorgia does not seek and is not acquiring any right, title or interest in or to the Partner Content, all of which shall remain solely with Partner. However, with respect to Partner Content submitted or made available for inclusion on the Services, Partner grants buygeorgia the following world-wide, royalty free and non-exclusive license(s), during the Term to do the following to the extent necessary in the performance of Services:

- a. Digitize, convert, install, upload, select, order, arrange, compile, combine, synchronize, use, reproduce, store, process, retrieve, transmit, distribute, publish, publicly display, publicly perform and hyperlink the Partner Content; and
- b. Make archival or back-up copies of the Partner Content for backup and recovery purposes.

### 10. Content Policy

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Partner agrees that buygeorgia is both a business and family friendly program and Partner Content submitted by Partner to buygeorgia will be in good taste and be relevant to the business that's being promoted. Partner further agrees and understands that all Partner Content that contains the following are strictly prohibited, will not be submitted by Partner and will not be accepted by buygeorgia:

- a. Profanity, vulgar, offensive, sexually explicit, and expletive language or graphics
- b. Hate, violence, racial intolerance, or advocate against any individual, group, or organization
- c. Pornography, adult, or mature content, events, businesses, facilities
- d. Illicit drugs and drug paraphernalia
- e. Political in nature
- f. Network marketing organizations, companies, services, etc.
- g. Hacking/cracking content
- h. Gambling or casino-related content
- i. Excessive advertising
- j. Pop-ups, pop-unders or exit windows that interfere with site navigation, obscure ads, change user preferences, or are for downloads.
- k. Deceptive or manipulative content or construction to improve your site's search engine ranking, e.g., your site's page rank
- l. Links to any of the above

### 11. Partner's Actions in Event of "Hacking" Incident or Improper Link to Partner's website

Partner agrees that if the Partner's website that buygeorgia links to become "hacked" or some other action causes the Partner's website to link to a website that does not adhere to the buygeorgia standards, that Partner will immediately contact buygeorgia and work with buygeorgia to disable the link until an acceptable link can be re-established. Partner also agrees that if buygeorgia becomes aware of a "hacked" situation regarding the link to Partner's website and notifies Partner, that Partner will take all actions that are reasonably necessary to immediately remedy the situation.

### 12. Partner's Link(s) to buygeorgia

Links from buygeorgia to a Partner's website(s) must link the user directly to a landing page within the site for the service or product that is being promoting and not just to the home page. Any other link must be expressly approved in writing from buygeorgia.

### 13. Links to Other Sites

The Services may provide, or third parties may provide, links to other websites or resources. Because buygeorgia has no control over such sites and resources, Partner acknowledges and agrees that buygeorgia is not responsible for the availability of

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such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such websites or resources. Partner further acknowledges and agrees that buygeorgia shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Partner Content, goods or services available on or through any such websites or resources.

### 14. buygeorgia Approval of Listings and Information Available on the Services

Partner agrees and understands that buygeorgia shall have the right (but not the obligation) in buygeorgia's sole discretion to review, pre-screen, refuse, move, reject any or all advertising, listing priority, space reservation or position commitment of any Partner Content that Partner submits or has available via the Services. Without limiting the foregoing, buygeorgia and its designees shall have the right to remove any Partner Content that violates the advertising policy, these TOS or is otherwise objectionable. buygeorgia shall also have the absolute right to reject any URL link embodied within any advertisement

### 15. Partner Member Account, Password and Security

Partner will receive a password and account designation upon completing the Services registration process. Partner agrees and understands and is fully responsible for maintaining the confidentiality of the password and account, and is fully responsible for all activities that occur with the Partner's password or account. Partner further agrees to (a) immediately notify buygeorgia of any unauthorized use of Partner's password or account or any other breach of security, and (b) ensure that Partner exits from the account at the end of each session. buygeorgia cannot and will not be liable for any loss or damage arising from Partner's failure to comply with this Section.

### 16. Partner Conduct

Partner agrees and understands that all Partner Content or other materials that Partner provides to buygeorgia are Partner's sole responsibility and buygeorgia recognizes Partner as the Partner Content originator. This means that Partner, and not buygeorgia, is entirely responsible for all Partner Content that you upload, post, email, transmit or otherwise make available via the Services. buygeorgia does not guarantee the accuracy, integrity or quality of such Partner Content. Under no circumstances will buygeorgia be liable in any way for any Partner Content, including, but not limited to, for any errors or omissions in any Partner Content, or for any loss or damage of any kind incurred as a result of the use of any Partner Content posted, emailed, transmitted or otherwise made available via the Services.

Partner will provide all materials for the advertisement (including GIF files), in accordance with buygeorgia's policies in effect from time to time, and including

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without limitation, the manner of transmission to buygeorgia and the delivery time prior to publication of the advertisement. All expenses connected with the delivery to buygeorgia of advertising material or Partner Content and any cost for return of such materials from buygeorgia shall be paid by Partner. Notwithstanding the foregoing, buygeorgia may dispose of any advertising materials delivered to it unless Partner has previously made acceptable prepaid return arrangements, in writing.

Partner agrees to *Not* use the Services to:

- a. upload, post, email, transmit or otherwise make available any content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- b. harm minors in any way;
- c. impersonate any person or entity, including, but not limited to, a buygeorgia official, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- d. forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Services;
- e. upload, post, email, transmit or otherwise make available any content that Partner does not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- f. upload, post, email, transmit or otherwise make available any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any third party;
- g. upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas specifically authorized by buygeorgia to you;
- h. upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- i. disrupt the normal flow of dialogue, cause a screen to "scroll" faster than other users of the Services are able to type, or otherwise act in a manner that negatively affects other users' ability to engage in real time exchanges;
- j. interfere with or disrupt the Services or servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services;
- k. violate any applicable local, state, national or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities exchange, including, without limitation, the New York Stock Exchange, the American Stock Exchange or the NASDAQ, and any regulations having the force of law;

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- l. Partner agrees not send automated queries of any sort to buygeorgia's system without express permission in advance from buygeorgia. Note that "sending automated queries" includes, among other things: i) using any software which sends queries to buygeorgia to determine how a website or webpage "ranks" on buygeorgia for various queries; ii) "meta-searching" buygeorgia; and iii) performing "offline" searches on buygeorgia. Please do not write to buygeorgia to request permission to "meta-search" buygeorgia as such requests will not be granted.
  - m. Partner must not require or prompt an end user to download a dialer in order to view content of the site.
  - n. Partner agrees not to reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the Services (including your buygeorgia I.D.), use of the Services, or access to the Services.
  - o. Partner shall not access or attempt to access the Services except in accordance with these TOS. In the event of any unauthorized access to buygeorgia or any part thereof, including but not limited to attempts to bypass any part of the buygeorgia site and that buygeorgia may take immediate steps to terminate Partner's further access to the buygeorgia website and Partner shall promptly pay to buygeorgia such amounts as necessary to rectify Partner's unauthorized use.
17. Partner's Representations and Warranties.

Partner hereby represents and warrants to buygeorgia, and agrees that during the Term, Partner will ensure that: (a) Partner is the owner or valid licensee of the Partner Content and each element thereof, and Partner has secured all necessary licenses, consents, permissions, waivers and releases for the use of the Partner Content and each element thereof, including without limitation, all trademarks, logos, names and likenesses contained therein, without any obligation by buygeorgia to pay any fees, residuals, guild payments or other compensation of any kind to any Partner; (b) Partner's use, publication and display of the Partner Content will not infringe any copyright, patent, trademark, trade secret or other proprietary or intellectual property right of any person, or constitute a defamation, invasion of privacy or violation of any right of publicity or any other right of any person, including, without limitation, any contractual, statutory or common law right or any "moral right" or similar right however denominated; (c) Partner will comply with all applicable laws, rules and regulations regarding the Partner Content and the links to Partner website and will use the Partner website only for lawful purposes; (d) Partner has used its best efforts to ensure that the Partner Content is and will at all times remain free of all computer viruses, worms, Trojan horses and other malicious code; and (e) Partner will use the Services only for purposes intended by these TOS.

Partner acknowledges, consents and agrees that buygeorgia may access, preserve, and disclose your account information and Partner Content if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce these TOS; (c) respond to

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claims that any Partner Content violates the rights of third parties; (d) respond to your requests for customer service; or (e) protect the rights, property, or personal safety of buygeorgia, its users and the public.

Partner agrees and understands that the Services and software embodied within the Services may include security components that permit digital materials to be protected, and use of these materials is subject to usage rules set by buygeorgia and/or content providers who provide content for the Services. Partner agrees not attempt to override or circumvent any of the usage rules embedded into the Services. Any unauthorized reproduction, publication, further distribution or public exhibition of the materials provided on the Services, in whole or in part, is strictly prohibited.

### 18. buygeorgia's Representations and Limited Warranty

buygeorgia disclaims any and all responsibility or liability for the accuracy, content, completeness, legality, reliability, or operability or availability of information or material displayed in the Services results. buygeorgia disclaims any responsibility for the deletion, failure to store, misdeliver, or untimely deliver any information or material. buygeorgia disclaims any responsibility for any harm resulting from downloading or accessing any information or material on the Internet through the Services.

buygeorgia represents and warrants to Partner that the Services will be performed (i) in a manner consistent with industry standards reasonably applicable to the performance thereof; (ii) at least at the same level of service as provided by buygeorgia generally to its other Partners for the same services; and (iii) in compliance in all material respects with the applicable Services Descriptions. Partner will be deemed to have accepted such Services unless Partner notifies buygeorgia within 10 days after performance of any Services of any breach of the foregoing warranties. Partner's sole and exclusive remedy, and buygeorgia's sole obligation, for breach of the foregoing warranties shall be for buygeorgia, at its option, to re-perform the defective Services at no cost to Partner, or, in the event of interruptions to the Services caused by a breach of the foregoing warranties, issue Partner a credit in an amount equal to the current Services Fees pro rated by the number of hours in which the Services have been interrupted. The foregoing warranties shall not apply to performance issues or defects in the Services (i) caused by factors outside of buygeorgia's reasonable control; (ii) that resulted from any actions or inactions of Partner or any third parties; or (iii) that resulted from Partner's equipment or any third-party equipment not within the sole control of buygeorgia.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 18, BUYGEORIGA MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR ANY SOFTWARE PROVIDED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND BUYGEORGIA HEREBY EXPRESSLY DISCLAIMS THE SAME. WITHOUT LIMITING THE FOREGOING, ANY

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THIRD-PARTY SOFTWARE PROVIDED TO PARTNER HEREUNDER IS PROVIDED “AS IS” WITHOUT ANY CONDITION OR WARRANTY WHATSOEVER. BUYGEORGIA DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, ERROR-FREE, AND COMPLETELY SECURE. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT PARTNER’S OWN DISCRETION AND RISK AND THAT PARTNER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO PARTNER’S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. BUYGEORGIA AND ITS LICENSORS DISCLAIM ANY WARRANTIES FOR SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED VIA THE SERVICES OR RECEIVED THROUGH ANY LINKS PROVIDED BY THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY PARTNER FROM BUYGEORGIA OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TOS.

### 19. Special Admonition for Services Relating to Financial Matters

The Services are provided for informational purposes only, and no content included in the Services is intended for trading or investing purposes. buygeorgia and its licensors shall not be responsible or liable for the accuracy, usefulness or availability of any information transmitted or made available via the Services, and shall not be responsible or liable for any trading or investment decisions made based on such information.

### 20. Indemnification

Partner shall defend, indemnify and hold harmless buygeorgia, its affiliates and their respective present, former and future officers, directors, employees and agents, and their respective heirs, legal representatives, successors and assigns (collectively the “**buygeorgia Indemnitees**”), from and against any and all losses, damages, costs, liabilities and expenses (including, without limitation, amounts paid in settlement and reasonable attorneys’ fees) which any of the buygeorgia Indemnitees may suffer, incur or sustain resulting from or arising out of (i) Partner’s breach of any representation, warranty, or other term in these TOS, (ii) the Partner Content, the Partner website or any user’s use of the Partner Content or the Partner website, (iii) violation by Partner or any of its officers, directors, employees or agents any applicable law, (iv) claims or actions of third parties alleging misappropriation of trade secrets or infringement of patents, copyrights, trademarks or other intellectual property rights arising from the use, display or publication of Partner’s domain names, the Partner website, the Partner Content, or the use of the Services in combination with hardware, software or content not provided by buygeorgia, (v) claims or actions by third parties relating to or arising out of Partner’s use of the Services, and (vi) any failure of the Partner Content or any aspect of the Partner website to be compatible with the hardware or software used by buygeorgia to provide the Services, including any damage to buygeorgia’s servers or other hardware caused thereby.

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### 21. Limitation of Liability

PARTNER AGREES THAT UNDER NO CIRCUMSTANCES SHALL BUYGEORGIA OR ITS LICENSORS BE LIABLE TO PARTNER OR ANY THIRD PARTIES IN CONNECTION WITH THE SERVICES, ANY SOFTWARE PROVIDED HEREUNDER OR ANY ORDER ON ACCOUNT OF THAT PARTNER'S USE OR MISUSE OF OR RELIANCE ON THE SERVICES OR ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF. THIS LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, (EVEN IF BUYGEORGIA OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). THIS LIMITATION OF LIABILITY SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW.

### 22. Cancellation and Termination

Except as otherwise provided herein, these TOS is non-cancelable by Partner. Partner agrees that buygeorgia may, *under certain circumstances and without prior notice*, immediately terminate Partner's buygeorgia account and access to the Services. Cause for such termination shall include, but not be limited to, (a) breaches or violations of these TOS or other incorporated agreements or guidelines, (b) requests by law enforcement or other government agencies, (c) discontinuance or material modification to the Services (or any part thereof), (d) unexpected technical or security issues or problems. Termination of your buygeorgia account includes (e) removal of access to all offerings within the Services, including but not limited to buygeorgia newsletter and alerts, (f) deletion of your password and all related information, files and content associated with or inside your account (or any part thereof), and (g) barring further use of the Services. Further, you agree that all terminations for cause shall be made in buygeorgia's sole discretion and that buygeorgia shall not be liable to you or any third-party for any termination of your account, or access to the Services. Upon such termination, all charges for services hereunder shall become immediately due and payable, including interest on any sums not paid when due. Notwithstanding anything herein to the contrary, any termination or cancellation of the Services shall not release Partner from its obligation to make payment for all advertisements that have been displayed on buygeorgia's site(s) or for other charges as provided herein incurred prior to the date such termination or cancellation becomes effective.

### 23. Changes to Rates, Services, TOS and Other Terms.

buygeorgia reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. Partner agrees that buygeorgia shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services. It is the responsibility of Partner to review these TOS from time to time to be apprised of any changes.

## Partner Terms of Services

If buygeorgia implements a change to the Rate Card and said change would have an impact of increasing the price of the Services to Partner during the then current term, then buygeorgia will provide by email notification to Partner and a 30 day notice in advance of any said Rate Card change. IF BUYGEORGIA EXERCISES THIS RIGHT AS TO THE RATE CARD, THEN PARTNER MAY, AT ANY TIME WITHIN SUCH 30 DAY NOTICE PERIOD, CANCEL THE REMAINDER OF THE REMAINDER OF THE SERVICES TERM AND IN THAT EVENT THE UNAMENDED RATE CARD SHALL APPLY TO ALL ADVERTISING AND DISTRIBUTION HEREUNDER BY PARTNER WITHIN THE THIRTY DAY NOTICE PERIOD. IF PARTNER CHOOSES NOT TO CONTINUE ADVERTISING WITH BUYGEORGIA UNDER THE REVISED RATES AND OTHER TERMS, THEN PARTNER WILL BE ENTITLED TO A REFUND REPRESENTING THE BALANCE OF THE PARTNER'S COMMITMENT PERIOD ACCORDING TO THE ORDER.

### 24. Assignment

Partner may not assign these TOS without buygeorgia's prior written consent.

### 25. Copyright, Intellectual Property, Agent for Notice and buygeorgia's Proprietary Rights

Partner acknowledges and agrees that the Services and any necessary software used in connection with the Services ("**Software**") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Partner further acknowledges and agrees that content contained in sponsor advertisements or information presented to you through the Services or advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except as expressly authorized by buygeorgia or its advertisers, you agree not to modify, rent, lease, loan, sell, distribute or create derivative works based on the Services or the Software, in whole or in part.

buygeorgia hereby grants to Partner a non-exclusive, non-transferable, royalty-free license, exercisable solely during the Term, to use applicable buygeorgia Software solely for the purpose of accessing and using the Services. Provided that Partner does not (and does not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software. Except for the rights expressly granted above, these TOS do not transfer from buygeorgia to Partner any buygeorgia Software or other intellectual property, and all rights, titles and interests in and to the buygeorgia same shall remain solely with buygeorgia. Partner shall not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from any of the buygeorgia Software. Partner further agrees and understands:

- a) Any feedback, data, answers, questions, comments, suggestions, ideas or the like which Partner sends to buygeorgia relating to the Services will be treated as being confidential and proprietary to buygeorgia. buygeorgia may use,

## Partner Terms of Services

- disclose or publish any ideas, concepts, know-how or techniques contained in such information for any purpose whatsoever;
- b) buygeorgia respects the intellectual property of others, and we ask our users to do the same. buygeorgia may, in appropriate circumstances and at its discretion, disable and/or terminate the accounts of Partners that may be infringing the intellectual property rights of others; and
  - c) The ad templates offered by buygeorgia and the underlying code, as well all intellectual property rights therein, remain the exclusive property of buygeorgia and buygeorgia owns all rights, title and interest thereto.

If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide us with the following information:

- a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- b) a description of the copyrighted work or other intellectual property that you claim has been infringed;
- c) a description of where the material that you claim is infringing is located on the site;
- d) your address, telephone number, and email address;
- e) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law; and
- f) a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Please send the above information to:

Chief Legal Counsel  
buygeorgia  
2526 Mount Vernon Road  
Suite B-214  
Dunwoody, Georgia 30338-3006  
[legal@buygeorgia.com](mailto:legal@buygeorgia.com)

If Partner seeks permission to use buygeorgia trademarks, logos, service marks, trade dress, slogans, screen shots, copyrighted designs, or other brand features, please contact the buygeorgia Chief Marketing officer [cmo@buygeorgia.com](mailto:cmo@buygeorgia.com)

### 26. Trademarks

The BUYGEORGIA, BUYGEORGIA logo, BUYGEORGIA “FUZZY” CARICATURE, trademarks and service marks and other buygeorgia logos and

## Partner Terms of Services

product and service names are trademarks of Georgia Commerce Group Inc. (the "**buygeorgia Marks**"). Without buygeorgia's prior permission, you agree not to display or use in any manner, the buygeorgia Marks.

### 27. Account Transferability and Survivorship

Partner agrees that their buygeorgia account is non-transferable along with the rights to their buygeorgia I.D. or contents without the express written consent of buygeorgia. buygeorgia memberships are not transferable, assignable or resalable in connection with the sale of Partner's site or otherwise. For example, when a site changes ownership or management, the prior owner or manager must cancel the buygeorgia Partner membership for the website, and the new owner or manager may sign up for a new buygeorgia Partner membership account in the new Partner's name.

### 28. Entire Agreement

The TOS constitutes the entire agreement between Partner and buygeorgia and governs Partner's use of the Services, and supersedes any prior agreements between Partner and buygeorgia. Partner also may be subject to additional terms and conditions that may apply when Partner uses or purchases certain other buygeorgia services, affiliate services, third-party content or third-party software.

### 29. Renewals

The Term shall automatically renew from time to time for additional and successive one-year terms under its then-current terms and conditions, including without limitation rates, frequency and quantity, subject to acceptance by buygeorgia, in its sole discretion. Upon thirty (30) days written notice prior to expiration of the original term or any renewal Term, either party may terminate the Services at any time upon delivery of said notice to the other. Such notice to buygeorgia shall be marked to the attention of the "Chief Marketing Officer" [cmo@buygeorgia.com](mailto:cmo@buygeorgia.com).

### 30. buygeorgia Privacy Policy

Partner agrees and understands that certain Partner data and other information about Partner is subject to our Privacy Policy. For more information, see our full privacy policy at [Privacy Policy](#).

### 31. Confidentiality; Non-Solicitation

Each party will not, without the prior written consent of the other party, use or disclose to any person any Proprietary Information (defined below) of the other party disclosed or made available to it, except for use of such Proprietary Information as required in connection with the performance of its obligations or use of the Services hereunder. Each party will (i) treat the Proprietary Information of the other party as secret and confidential, (ii) limit access to the Proprietary Information of the party to

## Partner Terms of Services

those of its employees who require it in order to effectuate the purposes of these TOS, and (iii) not disclose the Proprietary Information of the other party to any other person without the prior written consent of the other party.

- a. For the purposes of these TOS, **“Proprietary Information”** means (a) information of a party in all forms which derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, as well as (b) other information that is provided to or obtained by one party and that is valuable to the other party and not generally known by the public. Both parties agree, the following shall not be considered Proprietary Information: (i) any information that the receiving party can demonstrate by written documentation was within its legitimate possession prior to the time of disclosure by the disclosing party; (ii) any information that was in the public domain prior to disclosure by the disclosing party as evidenced by documents that were published prior to such disclosure; (iii) any information that, after disclosure by the disclosing party, comes into the public domain through no fault of the receiving party, (iv) any information that is disclosed to the receiving party without restriction by a third party who has legitimate possession thereof and the legal right to make such disclosure; or (v) any information that, two years after expiration or termination of the Services, does not constitute a trade secret under applicable law.
- b. Each party acknowledges that disclosure of any aspect of the Proprietary Information of the other party shall immediately give rise to continuing irreparable injury to the other party inadequately compensable in damages at law, and, without prejudice to any other remedy available to the other party, shall entitle the other party to injunctive or other equitable relief. Upon expiration or termination of the Services for any reason, each party shall promptly return to the other party all Proprietary Information of the other party (including all copies thereof) in its possession or control.

### 32. Partner's Representation

If Partner is a bona fide agency acting on behalf of a client named in these TOS, Partner warrants and agrees that it has express actual and apparent authority to place such advertising on behalf of its clients and that both Partner as agent and client as principal agree to be jointly and severally liable for the performance of these TOS including without limitation all payments, rebillings, adjustments, and other terms and conditions. Partner acknowledges that buygeorgia has no liability for any commission or other payment to Partner or to any agency unless agreed to in advance in writing by both parties.

### 33. Violation of the Terms of Services

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As a Partner, I understand that any violation of these TOS may result in the loss of privileges with buygeorgia up to and including immediate delisting from the buygeorgia website and revocation of Partner membership and access to the buygeorgia website.

### 34. General and Miscellaneous Provisions

- a) Independent Contractor. buygeorgia and Partner are independent contractors and nothing contained in this Agreement places buygeorgia and Partner in the relationship of principal and agent, master and servant, partners as legally defined or joint venturers. Neither party has, expressly or by implication, or may represent itself as having, any authority to make contracts or enter into any agreements in the name of the other party, or to obligate or bind the other party in any manner whatsoever.
- b) Governing Law; Jurisdiction. Any controversy or claim arising out of or relating to these TOS, the formation of these TOS or the breach of these TOS, including any claim based upon arising from an alleged tort, shall be governed by the substantive laws of the State of Georgia, except that all arbitration and related proceedings conducted pursuant to Section 34(c) below, including without limitation confirmation proceedings, shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1, et. seq. . . . The United Nations Convention on Contracts for the International Sale of Goods does not apply to these TOS. ANY SUIT, ACTION OR PROCEEDING CONCERNING THIS AGREEMENT THAT IS NOT SUBJECT TO MANDATORY ARBITRATION PURSUANT TO SECTION 34(c) BELOW MUST BE BROUGHT IN A GEORGIA STATE OR FEDERAL COURT LOCATED IN FULTON COUNTY, GEORGIA, AND EACH OF THE PARTIES HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS (AND OF THE APPROPRIATE APPELLATE COURTS THEREFROM) IN ANY SUCH SUIT, ACTION OR PROCEEDING AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT ANY SUCH SUIT, ACTION OR PROCEEDING WHICH IS BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- c) Mandatory Arbitration. Notwithstanding Section 34(b) above, each party agrees that any dispute between the parties arising out of these TOS or in any manner relating to the Services must be submitted by the parties to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as administered by Resolutions Resources Corp. of Atlanta, Georgia (or such other recognized provider of arbitration services agreed upon by both parties) before a single arbitrator, appointed in accordance with such rules. Any such arbitrator must render a reasoned opinion in writing only where the amount in dispute exceeds \$100,000. Judgment upon the award may be entered in any court having jurisdiction thereof. Any such arbitration will be held in Atlanta, Georgia. Any action filed by either party in any court in violation of this Section should be dismissed pursuant to this Section.

## Partner Terms of Services

- d) Headings. The headings herein are for convenience only and are not part of these TOS.
- e) Entire Agreement; Amendments. This Agreement, including documents incorporated herein by reference, supersedes all prior discussions, negotiations and agreements between the parties with respect to the subject matter hereof, and these TOS constitutes the sole and entire agreement between the parties with respect to the matters covered hereby. In case of a conflict between these TOS and any purchase order, service order, work order, confirmation, correspondence or other communication of Partner or buygeorgia, the terms and conditions of these TOS shall control. No additional terms or conditions relating to the subject matter of these TOS shall be effective unless approved in writing by any authorized representative of Partner and buygeorgia. This Agreement may not be modified or amended except by another agreement in writing executed by the parties hereto; provided, however, that these Terms of Services may be modified from time to time by buygeorgia in its sole discretion, which modifications will be effective upon posting to buygeorgia's website.
- f) Severability. All rights and restrictions contained in these TOS may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so that they will not render these TOS illegal, invalid or unenforceable. If any provision or portion of any provision of these TOS shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining provisions or portions thereof shall constitute their agreement with respect to the subject matter hereof, and all such remaining provisions or portions thereof shall remain in full force and effect.
- g) Notices. All notices and demands required or contemplated hereunder by one party to the other shall be in writing and shall be deemed to have been duly made and given upon date of delivery if delivered in person or by an overnight delivery or postal service, upon receipt if delivered by facsimile the receipt of which is confirmed by the recipient, or upon the expiration of five days after the date of posting if mailed by certified mail, postage prepaid, to the addresses or facsimile numbers set forth below the parties' signatures. Either party may change its address or facsimile number for purposes of these TOS by notice in writing to the other party as provided herein. buygeorgia may give written notice to Partner via e-mail to the Partner's e-mail address as maintained in buygeorgia's billing records. Notwithstanding notices in this section, buygeorgia may provide Partner with notices, including but not limited to those regarding changes to these TOS, Privacy Policy, Advertising Guidelines, by either email, regular mail, or postings on the Services.
- h) Waiver. No failure or delay by any party hereto to exercise any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy by any party preclude any other or further exercise thereof or the exercise of any other right or remedy. No express waiver or assent by any party hereto to any breach of or default in any term or condition of these TOS shall constitute a waiver of or an assent to any succeeding breach of or default in the same or any other term or condition hereof.

## Partner Terms of Services

- i) Limitation of Actions. No action, regardless of form, arising by reason of or in connection with these TOS may be brought by either party more than six (6) months after the cause of action has arisen.
- j) General Practices Regarding Use and Storage. Partner acknowledges that buygeorgia may establish general practices and limits concerning use of the Services, including without limitation the maximum number of days that uploaded Content will be retained by the Services after the expiration of Partner's membership and the maximum disk space that will be allotted on buygeorgia's servers on Partner's behalf. Partner further acknowledges that buygeorgia reserves the right to modify these general practices and limits from time to time.
- k) Counterparts. If these TOS are signed manually, it may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. If these TOS are signed electronically, buygeorgia's records of such execution shall be presumed accurate unless proven otherwise.
- l) Force Majeure. Neither party is liable for any default or delay in the performance of any of its obligations under these TOS (other than failure to make payments when due) if such default or delay is caused, directly or indirectly, by forces beyond such party's reasonable control, including, without limitation, fire, flood, acts of God, labor disputes, accidents, acts of war or terrorism, interruptions of transportation or communications, supply shortages or the failure of any third party to perform any commitment relative to the production or delivery of any equipment or material required for such party to perform its obligations hereunder.
- m) No Third-Party Beneficiaries. Except as otherwise expressly provided in these TOS, nothing in these TOS is intended, nor shall anything herein be construed to confer any rights, legal or equitable, in any Person other than the parties hereto and their respective successors and permitted assigns. Notwithstanding the foregoing, Partner acknowledges and agrees that Microsoft, and any supplier of third-party supplier that is identified as a third-party beneficiary in the Services Description, is an intended third-party beneficiary of the provisions set forth in these TOS as they relate specifically to its products or services and shall have the right to enforce directly the terms and conditions of these TOS with respect to its products or services against Partner as if it were a party to these TOS.
- n) Government Regulations. Partner may not export, re-export, transfer or make available, whether directly or indirectly, any regulated item or information to anyone outside the United States in connection with these TOS without first complying with all export control laws and regulations which may be imposed by the United States government and any country or organization of nations within whose jurisdiction Partner operates or does business.
- o) Marketing. Partner agrees that during the Term, buygeorgia may publicly refer to Partner, orally and in writing, as a Partner of buygeorgia. Any other public reference to Partner by buygeorgia requires the written consent of Partner.
- p) Dealings with buygeorgia Users. Partner's correspondence or business dealings with, or participation in promotions of, users found on or through the Services, including payment and delivery of related goods or services, and any other terms,

## Partner Terms of Services

- conditions, warranties or representations associated with such dealings, are solely between Partner and such user. Partner agrees that buygeorgia shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings with users on the Services.
- q) Dealings with Other buygeorgia Partners and Advertisers. Partner correspondence or business dealings with, or participation in promotions of, other buygeorgia Partners who advertise on this site or found on or through the Services, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such other Partner(s). Partner agrees that buygeorgia shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such Partners who advertise on the Services. However, in the event that you do encounter an issue, please bring it to the attention of the buygeorgia team so that we may have a record of the incident and work with you to resolve it to your satisfaction.
- r) Partner Not to Broker Services. Partner represents and warrants that it shall not broker the Services provided hereunder, and further acknowledges that two or more firms may not advertise under a single agreement except in cases where one such firm owns the other(s) as a subsidiary company and these TOS is signed by such parent firm.