

Private Member Terms of Services

Private Member:

Welcome to buygeorgia. We are excited that you have decided to join our buygeorgia community. We look forward to serving you and look forward to your feedback as we continue to build our community. 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 Private Member (defined below) to agree to our Terms of Services (“**TOS**”). To uphold the highest quality and reputation of buygeorgia, all Private Members who apply are reviewed according to our buygeorgia program policies.

By registering to become a Private Member (“**Private Member**”) of the buygeorgia community (“**Registration**”) and using the buygeorgia website and other buygeorgia services (the “**Services**”), Private Member 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 Private Member and that it is the Private Member’s responsibility to keep up-to-date with and adhere to the policies posted here. Private Member 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 Private Member and buygeorgia hereby agree to be bound by the following TOS:

1. Description of the Services

buygeorgia provides Private Member certain Services and access to special online promotions, discounts, newsletters, events and festivals listings, links to other businesses and organization of interest, information, etc., within the community. Private Member 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. Private Member is responsible for obtaining access to the Services and that access may involve third party fees (such as Internet service provider ISP charges). Private Member is responsible for those fees, including those fees associated with the equipment necessary to access the Services (such as a personal computer).

2. Acceptance of Registration

When the Registration is accepted by buygeorgia, the Registration creates a contract between Private Member and buygeorgia, consisting of the Registration, the applicable Services and these TOS. A Registration is “**Accepted**” by buygeorgia

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when buygeorgia provides Services in response to the Registration or bills Private Member for payment and buygeorgia posts the Registration to the production website.

3. Private Member and buygeorgia Membership

Private Member agrees to and fully understands the following by choosing to become a part of the buygeorgia community:

- a. Private Member will receive the best online discounts and promotions available to the community. These will be better than those offered to the general public or Guests of buygeorgia;
- b. Private Membership will be for a period of twelve months upon which time the Private Member may have the option to renew;
- c. Private Member receives a membership consisting of twelve consecutive (12) months (“**Term**”) unless otherwise approved by buygeorgia in writing. Such Membership period will begin when payment is made to buygeorgia. Private Member, in good standing with buygeorgia, will have the option to renew their membership on the one year anniversary date of their Membership Period;
- d. Membership is valid for use by all members of the Private Member’s immediate household.

Private Member will have access to the buygeorgia Private Member Administration tool that provides the capability to update the detail profile if the Private Member desires to make one known to buygeorgia. It is the responsibility of the Private Member to update all Private Member related information

4. Content Policy

Private Member agrees that buygeorgia is both a business and family friendly program and that all information supplied by Private Member to buygeorgia (“**Private Member Content**”) will be in good taste and be relevant to the community. Private Member further agrees and understands that all Private Member Content that contains the following are strictly prohibited, will not be submitted by Private Member 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. Commercial advertising;

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- 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; or
- l. Links to any of the above.

5. 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, Private Member acknowledges and agrees that buygeorgia is not responsible for the availability of 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. Private Member 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 Private Member Content, goods or services available on or through any such websites or resources.

6. buygeorgia Approval of Listings and Information Available on the Services

Private Member 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 content, listing priority, space reservation or position commitment of any Private Member Content that Private Member submits or has available via the Services. Without limiting the foregoing, buygeorgia and its designees shall have the right to remove any Private Member Content that violates the Content Policy, these TOS or is otherwise objectionable.

7. Private Member Account, Password and Security

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

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8. Private Member Conduct

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

Private Member 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 Private Member 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;

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- 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;
 - l. Private Member 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. Private Member must not require or prompt an end user to download a dialer in order to view content of the site.
 - n. Private Member 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. Private Member 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 Private Member's further access to the buygeorgia website and Private Member shall promptly pay to buygeorgia such amounts as necessary to rectify Private Member's unauthorized use.
9. Private Member's Representations and Warranties.

Private Member hereby represents and warrants to buygeorgia, and agrees that during the Term, Private Member will ensure that: (a) Private Member is the owner or valid licensee of the Private Member Content and each element thereof, and Private Member has secured all necessary licenses, consents, permissions, waivers and releases for the use of the Private Member 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 Private Member; (b) Private Member's use, publication and display of the Private Member 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) Private Member will comply with all applicable laws, rules and regulations regarding the Private Member Content

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and the links to Private Member website and will use the Private Member website only for lawful purposes; (d) Private Member has used its best efforts to ensure that the Private Member Content is and will at all times remain free of all computer viruses, worms, Trojan horses and other malicious code; and (e) Private Member will use the Services only for purposes intended by these TOS.

Private Member acknowledges, consents and agrees that buygeorgia may access, preserve, and disclose your account information and Private Member 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 claims that any Private Member 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.

Private Member 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. Private Member 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.

10. 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 Private Member that the Services will be performed in a manner consistent with industry standards reasonably applicable to the performance thereof.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 10, BUYGEORIGA MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR ANY SOFTWARE PROVIDED UNDER THESE TOS, 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 THIRD-PARTY SOFTWARE PROVIDED TO PRIVATE MEMBER HEREUNDER IS PROVIDED "AS IS" WITHOUT ANY CONDITION OR WARRANTY WHATSOEVER. BUYGEORGIA DOES NOT WARRANT THAT THE SERVICES WILL BE

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UNINTERRUPTED, TIMELY, ERROR-FREE, AND COMPLETELY SECURE. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT PRIVATE MEMBER'S OWN DISCRETION AND RISK AND THAT PRIVATE MEMBER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO PRIVATE MEMBER'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 PRIVATE MEMBER FROM BUYGEORGIA OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TOS.

11. 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.

12. Indemnification

Private Member 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) Private Member's breach of any representation, warranty, or other term in these TOS, (ii) the Private Member Content, the Private Member website or any user's use of the Private Member Content or the Private Member website, (iii) violation by Private Member 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 Private Member's domain names, the Private Member website, the Private Member 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 Private Member's use of the Services, and (vi) any failure of the Private Member Content or any aspect of the Private Member 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.

13. Limitation of Liability

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PRIVATE MEMBER AGREES THAT UNDER NO CIRCUMSTANCES SHALL BUYGEORGIA OR ITS LICENSORS BE LIABLE TO PRIVATE MEMBER OR ANY THIRD PARTIES IN CONNECTION WITH THE SERVICES, ANY SOFTWARE PROVIDED HEREUNDER OR ANY ORDER ON ACCOUNT OF THAT PRIVATE MEMBER'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.

14. Cancellation and Termination

Except as otherwise provided herein, these TOS is non-cancelable by Private Member. Private Member agrees that buygeorgia may, *under certain circumstances and without prior notice*, immediately terminate Private Member'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 eNewsletter 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 Private Member from its obligation to make payment for all other charges as provided herein incurred prior to the date such termination or cancellation becomes effective.

15. 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. Private Member 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 Private Member to review these TOS from time to time to be apprised of any changes.

16. Assignment

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

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

Private Member 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. Private Member 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 Private Member 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 Private Member 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 Private Member any buygeorgia Software or other intellectual property, and all rights, titles and interests in and to the buygeorgia same shall remain solely with buygeorgia. Private Member 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. Private Member further agrees and understands:

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

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- 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

If Private Member 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

18. Trademarks

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

19. Account Transferability and Survivorship

Private Member 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.

20. 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

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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.

21. buygeorgia Privacy Policy

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

22. Violation of the Terms of Services

As a Private Member, 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 Private Member membership and access to the buygeorgia website.

23. General and Miscellaneous Provisions

- a) Independent Contractor. buygeorgia and Private Member are independent contractors and nothing contained in these TOS places buygeorgia and Private Member in the relationship of principal and agent, master and servant, Private Members 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 23(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 23(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

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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 23(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.
- 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 Private Member 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 Private Member 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

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- 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 Private Member via e-mail to the Private Member's e-mail address as maintained in buygeorgia's billing records. Notwithstanding notices in this section, buygeorgia may provide Private Member 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.
 - 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. Private Member 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 Private Member's membership and the maximum disk space that will be allotted on buygeorgia's servers on Private Member's behalf. Private Member 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, Private Member 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

Private Member Terms of Services

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 Private Member as if it were a party to these TOS.

- n) Government Regulations. Private Member 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 Private Member operates or does business.
- o) Dealings with buygeorgia Users: Private Member'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, conditions, warranties or representations associated with such dealings, are solely between Private Member and such user. Private Member 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.
- p) Dealings with Other buygeorgia Partners and Advertisers. Private Member correspondence or business dealings with, or participation in promotions of, other buygeorgia Partners and Advertisers 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 Partners and Advertisers. Private Member 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 and Advertisers 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.