

Authorized User Terms and Conditions
Terms of Service ("TOS")

You must accept these terms to proceed:

IMPORTANT – THIS IS AN AGREEMENT BETWEEN PURCHASER ("YOU" OR THE "AUTHORIZED USER") AND FOODBUY, LLC (ALSO REFERRED TO HEREIN AS "WE" OR "COMPANY"). BEFORE ACCESSING OR USING ANY PART OF VENDOR TECHNOLOGY SERVICES ("WEBSITE"), YOU SHOULD READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS CONTAINED IN THIS TERMS OF SERVICE AGREEMENT (THE "TOS"), WHICH GOVERN YOUR ACCESS TO AND USE OF THIS WEBSITE AND ANY PROGRAMS, SERVICES, TOOLS, MATERIALS, OR INFORMATION AVAILABLE THROUGH THE WEBSITE OR USED IN CONNECTION THEREWITH (COLLECTIVELY, THE "COMPANY WEBSITE"). COMPANY IS WILLING TO LICENSE AND ALLOW YOUR USE OF THIS COMPANY WEBSITE ONLY ON THE CONDITION THAT YOU ACCEPT AND AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS TOS. IF YOU DO NOT AGREE WITH THIS TOS, YOU ARE NOT GRANTED PERMISSION TO ACCESS OR OTHERWISE USE THE COMPANY WEBSITE AND ARE INSTRUCTED TO EXIT THE COMPANY WEBSITE IMMEDIATELY. YOUR ACCESS TO COMPANY WEBSITE IS PROVIDED TO YOU AS A PARTICIPANT IN THE PROCUREMENT SERVICES PROGRAM OPERATED BY NAVIGATOR GROUP PURCHASING, INC. (THE "NGP PROGRAM") AND YOUR ACCESS WILL AUTOMATICALLY TERMINATE WITHOUT NOTICE UPON THE DATE YOUR AGREEMENT WITH COMPANY TO PARTICIPATE IN THE NGP PROGRAM TERMINATES.

TERMS AND CONDITIONS

1. **LICENSE GRANT.** The Company WebSite is provided by Company, and this TOS provides to you a personal, revocable, limited, non-exclusive, royalty-free, non-transferable license to use the Company WebSite and any programs, services, tools, materials, or information made available through or from the Company WebSite conditioned on your continued compliance with the terms and conditions of this TOS. This TOS permits you as a customer of Company to use and access for business purposes only the Company WebSite from the Internet or through an on-line network. You may also load information from the Company WebSite into your laptop's, workstation's, or computer's temporary memory (RAM) and print and download materials and information from the Company WebSite solely for your business use as part of your company's participation in the NGP Program, provided that all hard copies display the copyright and other applicable notices contained in such materials and information when printed from the WebSite. If you are using the Company WebSite on behalf of a company or other form of entity, please note that such a company or entity may have a separate agreement with Navigator Group Purchasing, Inc. to participate in the NGP Program and to access this Website.

2. **RESTRICTIONS.** The license granted in paragraph 1 above is limited. You may not use, copy, store, reproduce, transmit, distribute, display, rent, lease, sell, modify, alter, license, sublicense, transfer, assign, or otherwise commercially exploit or make available to any third party any data provided by Company through the Company WebSite in any manner not expressly permitted by this TOS. In addition, you may not modify, translate, decompile, create any derivative work(s) of, copy, distribute, disassemble, broadcast, transmit, publish, remove or alter any proprietary notices or labels, license, sublicense, transfer, sell, mirror, frame, exploit, rent, lease, private label, grant a security interest in, or otherwise use in any manner not expressly permitted herein the Company WebSite. Moreover, you may not (i) use any "deep link," "page scrape," "robot," "spider," or other automatic

device, program, script, algorithm, or methodology, or any similar or equivalent manual process, to access, acquire, copy, or monitor any portion of the Company WebSite or in any way reproduce or circumvent the navigational structure or presentation of the Company WebSite to obtain or attempt to obtain any materials, documents, or information through any means not purposely made available through the Company WebSite, (ii) attempt to gain unauthorized access to any portion or feature of the Company WebSite, including, without limitation, the account of any other Authorized User(s), or any other systems or networks connected to the Company WebSite or to any Company server or to any of the services offered on or through the Company WebSite, by hacking, password "mining," or any other illegitimate or prohibited means, (iii) probe, scan, or test the vulnerability of the Company WebSite or any network connected to the Company WebSite, with the exception of activities that are designed to test vulnerabilities for the Purchaser use of the WebSite, nor breach the security or authentication measures on the Company WebSite or any network connected to the Company WebSite, nor monitor the availability, performance, of the Company WebSite for any competitive purpose (iv) reverse look-up, trace, or seek to trace any information on any other Authorized User of or visitor to the Company WebSite, (v) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Company WebSite or Company's systems or networks or any systems or networks connected to the Company WebSite, (vi) use any device, software, or routine to interfere with the proper working of the Company WebSite or any transaction conducted on the Company WebSite, or with any other person's use of the Company WebSite, (vii) forge headers, impersonate a person, or otherwise manipulate identifiers in order to disguise your identity or the origin of any message or transmittal you send to Company on or through the Company WebSite, (viii) use the Company WebSite to harvest or collect e-mail addresses or other contact information; (ix) market, co-brand, private label, separately distribute, resell, or otherwise permit third parties to access and use the Company WebSite (or any part thereof) without Company express, separate, and prior written permission, or (x) use the Company WebSite in an unlawful manner or in a manner that could damage, disparage, or otherwise negatively impact Company.

3. USER OBLIGATIONS. By downloading, accessing, or using the Company WebSite in order to view our information and materials or submit information of any kind, you represent that you are an employee of a company that has an agreement with Navigator Group Purchasing, Inc. to participate in the NGP Program and are authorized to access this Website by Company and your employer for the sole purpose of participating in the NGP Program. You also represent that you are at least eighteen(18) years of age and located in the United States. If you provide any false, inaccurate, untrue, or incomplete information, Company reserves the right to terminate immediately your access to and use of the Company WebSite. In addition, you agree to abide by all applicable local, state, national, and international laws and regulations with respect to your use of the Company WebSite. This TOS is also expressly made subject to any applicable export laws, orders, restrictions, or regulations. You shall not export the Company WebSite (or access thereto) without complying with such laws, orders, restrictions, or regulations. In addition, you also acknowledge and agree that use of the Internet is solely at your own risk. Any support, training, updates, upgrades, or maintenance of or for the Company WebSite shall only be available through the sole discretion of Company or pursuant to the terms and conditions of a separate written agreement with Company.

4. DELIVERY OF INFORMATION. With respect to any such content or information, you must also obtain at your sole expense all necessary consents, rights, permissions, and clearances (and provide Company with reasonable proof thereof (if requested)) required for Company to use such content or information in connection with Company's services and the Company WebSite. Notwithstanding the foregoing, you acknowledge and agree that Company shall not be responsible for any failures, inoperability, delays, or problems caused by your failure to obtain the necessary rights, clearance or permission or to provide any necessary content or information for your use of the Company WebSite in a timely or accurate manner.

5. **OTHER TERMS AND CONDITIONS.** In particular, this TOS, in and of itself, shall not entitle you to any of the NGP membership benefits offered through the NGP Program which shall be governed by Your membership agreement with NGP.

6. **USER NAME HANDLING POLICY.** Registration as an Authorized User for access to certain areas of the Company WebSite, namely, the Company member area, may require both a user name and a password. Only one Authorized User can use one user name and password and, thus, one account. By limiting access, it helps avoid unauthorized usage by other persons or entities because anyone with knowledge of both your user name and password can gain entry to the Company WebSite and to your account. Accordingly, by using the Company WebSite, you agree to consider your user name and password as confidential information and to keep your user name and password confidential. You must supervise the use of your user account, and understand and agree that you are responsible for your own use and the use of your user account by anyone you allow to access it. You also agree not to use another Authorized User's user name and password. You will immediately notify Company if you become aware of any loss or theft of your password or any unauthorized use of your user name and password. Your username, password, and account are nontransferable and may not be sold, combined, or otherwise shared with any other person or business. Company cannot and will not be liable for any loss or damage arising from your failure to comply with these obligations. Company reserves the right to delete or change (with notice) a user name or password at any time and for any reason.

7. **PRIVACY POLICY.** You understand, acknowledge, and agree that the operation of certain programs, services, tools, materials, or information of the Company WebSite requires the submission, use, and dissemination of various personal identifying information. Accordingly, if you wish to access and use those programs, services, tools, materials, or information of the Company WebSite, you acknowledge and agree that your information collection and use practices included as part of the Company's privacy policy at [http://foodbuy.com/pages/Privacy- Statement](http://foodbuy.com/pages/Privacy-Statement).

8. **POSTINGS.** This Company WebSite may contain blogs, message boards, comment areas, questionnaires, chat rooms, and other interactive features where Authorized Users can share and display certain information or Postings. To the extent that the Company WebSite contains such communication forums (collectively, "Forums"), you agree that by using the Company WebSite you will not post or transmit any of the following materials on the Company WebSite's Forums:

1. anything that interferes with or disrupts the Company WebSite or the operation thereof,
2. statements or material that defames, harasses, abuses, stalks, threatens, intimidates, or in any way infringes on the rights of others,
3. unauthorized copyrighted materials or any other material that infringes on the intellectual property rights, trade secrets, or privacy of others,
4. statements or material that violates other contractual or fiduciary rights, duties, or agreements,
5. statements or material that is bigoted, hateful, or racially offensive,
6. statements or material that encourages criminal conduct or that would give rise to civil liability or otherwise violates any law or regulation in any jurisdiction,
7. statements or material that constitutes anti-competitive collaboration and/or

antitrust violations,

8. statements or material that contains vulgar, obscene, profane, or otherwise objectionable language or images that typically would not be considered socially or professionally responsible or appropriate in person,
9. statements or material that harms minors,
10. statements or material that impersonates any other person or entity, whether actual or fictitious, including, without limitation, employees and representatives of Company,
11. statements or material that misrepresents your affiliation with any entity and/or Company,
12. anything that violates the privacy or publicity rights of any other person, including, without limitation, displaying any personal identifying information of another individual,
13. statements or material that constitutes junk mail, spam, or unauthorized advertising or promotional materials,
14. files that contain malicious code, viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer, network, or the Company WebSite. Or
15. files, information or other content that you are not authorized to disclose to Company.

9. **PERMISSION TO USE POSTINGS.** You represent that you have all necessary rights to make the Posting available to Company. Company assumes no responsibility for the deletion of or failure to store any Posting and recommends that you do not post, display, or transmit any confidential or sensitive information.

10. **NO PRE-SCREENING OF POSTINGS.** Company is not responsible for screening, policing, editing, or monitoring your or another Authorized User's Postings and encourages all of its Authorized Users to use reasonable discretion and caution in evaluating or reviewing any Posting. Moreover, and except as provided below with respect to Company's right and ability to delete or remove a Posting (or any part thereof), Company does not endorse, oppose, or edit any opinion or information provided by you or another Authorized User and does not make any representation with respect to, nor does it endorse the accuracy, completeness, timeliness, or reliability of any advice, opinion, statement, or other material displayed, uploaded, or distributed by you or any other Authorized User. Nevertheless, Company reserves the right to delete or take other action with respect to Postings (or parts thereof) that Company believes in good faith violate this TOS and/or are, or are potentially, unlawful or harmful to Company or its products, services, and goodwill. If you violate this TOS, Company may, in its sole discretion, delete the unacceptable content from your Posting, remove or delete the Posting in its entirety, issue you a warning, and/or terminate your use of the Company WebSite. Moreover, it is a policy of Company to take appropriate actions under the Digital Millennium Copyright Act under U. S. Copyright Law and other applicable intellectual property laws. If you become aware of Postings that violate these rules regarding acceptable behavior or content, you may contact Company as provided below.

11. PROPRIETARY RIGHTS. This TOS provides only a limited license to access and use the Company WebSite. Accordingly, you expressly acknowledge and agree that Company transfers no ownership or intellectual property interest or title in and to the Company WebSite or any content made available by Company to you on or through the WebSite and that all such intellectual property rights remain the sole and exclusive property of Company. All text, graphics, user interfaces, visual interfaces, photographs, sounds, artwork, computer code (including html code), programs, software, products, information, and documentation as well as the design, structure, selection, coordination, expression, "look and feel," and arrangement of any content contained on or available through the Company WebSite, unless otherwise indicated, are owned, controlled, and licensed by Company and its successors and assigns and are protected by law including, but not limited to, United States copyright, trade secret, patent, and trademark law, as well as other state, national, and international laws and regulations. Except as expressly provided herein, Company does not grant any express or implied right to you or any other person under any intellectual or proprietary rights. Accordingly, your unauthorized use of the Company WebSite may violate intellectual property or other proprietary rights laws as well as other laws, regulations, and statutes. Please be aware that Company does enforce its intellectual property rights to the fullest extent of the law and, in particular and without limitation, with respect to illegal use of terms confusingly similar to any of Company's trademarks. Company also owns a copyright in the contents of the Company WebSite as collective work and/or compilation and in the selection, coordination, arrangement, and enhancement of the content of the Company WebSite. Any downloadable or printable programs, directories, databases, information, or materials available through the Company WebSite and all copyrights, trade secrets, and know-how related thereto, unless otherwise indicated, are owned by Company.

12. FEEDBACK AND SUBMISSIONS. Company welcomes your feedback and suggestions about Company's products or services or the Company WebSite. By transmitting any suggestions, information, material, or other content (collectively, "feedback") to Company, you represent and warrant that such feedback does not infringe or violate the intellectual property or proprietary rights of any third party (including, without limitation, patents, copyrights, or trademark rights) and that you have all rights necessary to convey to Company and enable Company to use such feedback. In addition, any feedback received through the Company WebSite will be deemed to include a royalty-free, perpetual, irrevocable, transferable, non-exclusive right and license for Company to adopt, publish, reproduce, disseminate, transmit, distribute, copy, use, create derivative works, and display (in whole or in part) worldwide, or act on such feedback without additional approval or consideration, in any form, media, or technology now known or later developed for the full term of any rights that may exist in such content, and you hereby waive any claim to the contrary.

13. LINKS TO OTHER SITES. Company may provide links, in its sole discretion, to other sites on the World Wide Web for your convenience in locating or accessing related information, products, and services. These sites have not necessarily been reviewed by Company and are maintained by third parties over which Company exercises no control. Accordingly, Company expressly disclaims any responsibility for the content, the materials, the accuracy of the information, and/or the quality of the products or services provided by, available through, or advertised on these third-party Web sites. Moreover, these links do not imply an endorsement with respect to any third party or any Web site or the products or services provided by any third party.

14. THIRD-PARTY PRODUCTS/SERVICES. Company expressly disclaims responsibility and liability for all third-party provided materials, programs, products, and services contained on or accessed through the Company WebSite (e.g., Manufacturer/Distributor Services and Products), and you agree that Company shall not be responsible for any loss or damage of any sort incurred as a result of any such dealings or as the result of the presence of such third parties on the Company WebSite.

15. DISCLAIMER. WHILE COMPANY ENDEAVORS TO PROVIDE RELIABLE

INFORMATION, SERVICES, PROGRAMS, SOFTWARE, AND MATERIALS, UNLESS EXPRESSLY PROVIDED OTHERWISE: (A) THE INFORMATION, SERVICES, PROGRAMS, SOFTWARE, AND MATERIALS AVAILABLE ON OR THROUGH THE COMPANY WEBSITE ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS AND MAY INCLUDE ERRORS, OMISSIONS, OR OTHER INACCURACIES; (B) COMPANY IS NOT RESPONSIBLE FOR ANY POSTINGS PROVIDED BY YOU THAT ARE AVAILABLE THROUGH OR FROM THE COMPANY WEBSITE; (C) COMPANY MAY MAKE MODIFICATIONS AND/OR CHANGES IN THE COMPANY WEBSITE OR IN THE INFORMATION, SERVICES, PROGRAMS, SOFTWARE, AND MATERIALS AVAILABLE ON THE COMPANY WEBSITE AT ANY TIME AND FOR ANY REASON; (D) YOU ASSUME THE SOLE RISK OF MAKING USE AND/OR RELYING ON THE INFORMATION, SERVICES, PROGRAMS, AND MATERIALS AVAILABLE ON THE COMPANY WEBSITE; (E) COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE RESULTS THAT CAN BE ACHIEVED FROM OR THE SUITABILITY, COMPLETENESS, TIMELINESS, RELIABILITY, LEGALITY, OR ACCURACY OF THE INFORMATION, SERVICES, PROGRAMS, AND MATERIALS AVAILABLE ON THE COMPANY WEBSITE FOR ANY PURPOSE, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ANY OTHER IMPLIED WARRANTY UNDER THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AS ENACTED BY ANY STATE; AND (F) COMPANY ALSO MAKES NO REPRESENTATION OR WARRANTY THAT THE COMPANY WEBSITE WILL OPERATE ERROR FREE OR IN AN UNINTERRUPTED FASHION.

16. LIMITATION OF LIABILITY. You expressly absolve and release Company from any claim of harm resulting from a cause beyond Company's control, including, but not limited to, failure of electronic or mechanical equipment or communication lines, telephone or other connection problems, computer viruses, unauthorized access, theft, operator errors, severe weather, earthquakes, or natural disasters, strikes, or other labor problems, wars, or governmental restrictions. MOREOVER, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE COMPANY WEBSITE, WITH THE DELAY OR INABILITY TO USE THE COMPANY WEBSITE, OR FOR ANY INFORMATION, SERVICES, PROGRAMS, PRODUCTS, AND MATERIALS AVAILABLE THROUGH THE COMPANY WEBSITE, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY. NOTWITHSTANDING THE FOREGOING, TOTAL LIABILITY OF COMPANY FOR ANY REASON WHATSOEVER RELATED TO USE OF THE COMPANY WEBSITE SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY YOU TO COMPANY IN CONNECTION WITH THE SUBJECT MATTER OF THE PARTICULAR DISPUTE DURING THE PRIOR SIX MONTHS.

17. INDEMNITY. You agree to defend, indemnify, and hold harmless Company and affiliates and all of their respective employees, agents, directors, officers, shareholders, attorneys, successors, and assigns from and against any and all third party claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and litigation expenses) relating to or arising from any breach by you of this TOS.

18. GOVERNING LAW. You acknowledge and agree that any applicable state law adoption of the Uniform Computer Information Transactions Act (including any available remedies or laws) shall

not apply to this TOS and is hereby disclaimed. A printed version of this TOS and of any related notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this TOS to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Please contact Company if you wish to receive a printed copy of this TOS. This TOS and the relationship between the parties hereto will be governed by and construed under the laws of the state of Delaware. Any action brought to enforce this TOS shall be brought in the federal and state courts of Mecklenburg County, North Carolina. No action, regardless of form, relating to the subject matter of this TOS, may be brought by either party more than one (1) year after the claiming party knew or should have known of the cause of action.

19. ENFORCING SECURITY ON THE SITE. Actual or attempted unauthorized use of the Company WebSite may result in criminal and/or civil prosecution, including, without limitation, punishment under the Computer Fraud and Abuse Act of 1986 under U. S. federal law. Company reserves the right to view, monitor, and record activity on the Company WebSite without notice or permission from you, including, without limitation, by archiving notices or communications sent by you through the Company WebSite. Any information obtained by monitoring, reviewing, or recording is subject to review by law enforcement organizations in connection with investigation or prosecution of possible criminal or unlawful activity on the Company WebSite as well as to disclosures required by or under applicable law or related government agency actions. Company will also comply with all court orders involving requests for such information. In addition to the foregoing, Company reserves the right, at any time and without notice, to modify, suspend, terminate, or interrupt operation of or access to the Company WebSite, or any portion of the Company WebSite, in order to protect the Company WebSite, Company, or Company's business.

20. TERM AND TERMINATION. This TOS and your right to use the Company WebSite will take effect at the moment you click "I ACCEPT" or you install, access, or use the Company WebSite and is effective until terminated as set forth below. This TOS will terminate automatically if you click "I REJECT." This TOS and Your right to use the Company Website will automatically terminate without notice on the date Your agreement with NGP to participate in the NGP Program terminates. In addition, Company reserves the right at any time and on reasonable grounds, which shall include, without limitation, any reasonable belief of fraudulent or unlawful activity or actions or omissions that violate any term or condition of this TOS, to deny your access to the Company WebSite or to any portion thereof in order to protect its name and goodwill, its business, and/or other Authorized Users, and this TOS will also terminate automatically if you fail to comply with this TOS, subject to the survival rights of certain provisions identified below. Termination will be effective without notice. You may also terminate this TOS at any time by ceasing to use the Company WebSite, but all applicable provisions of this TOS will survive termination, as identified below. Upon termination, you must destroy all copies of any aspect of the Company WebSite in your possession. In addition to the miscellaneous section below, the provisions concerning Company's proprietary rights, feedback, indemnity, disclaimers of warranty, limitation of liability, and governing law will survive the termination of this TOS for any reason.

21. MISCELLANEOUS. Company's failure to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it or any other provision at a later time. Company may, at any time, in its sole discretion and without notice to you, assign some or all of its rights and obligations under this TOS. You may not assign your rights or delegate your duties under this TOS without the prior written consent of Company. If any provision of this TOS is held invalid, illegal or unenforceable for any reason, such invalid, illegal or unenforceable provision shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and such change shall not affect the existence or enforceability of any other provision of this TOS.

