

PARTICIPATION AGREEMENT

“Alt-Source: The Food Industry Exchange” is an on-line Platform and service (“System”) created to meet the need of the food industry to have an alternative to normal and customary commercial channels, that will allow members of the food industry and those serving that industry to locate new customers and new sources of supply.

The Principal Sponsor of the System is FMI-The Food Industry Association. Other associations may be added under certain conditions as Affiliate Sponsors.

The System that constitutes and is known as “Alt-Source: The Food Industry Exchange” was created by and is owned and maintained by The Seam, LLC, of Memphis, Tennessee. As used herein “FIE” refers to both “Alt-Source: The Food Industry Exchange” and The Seam, LLC.

FIE is not a buyer or seller on or over the Platform. FIE is not a party to agreements made between Participants. Whether they use FIE’s communications to negotiate and/or to reach agreement or they do so offline, Participants’ negotiations and agreements with one another are independent of FIE.

The Participants who use this service are solely responsible for the truth of their communications, and for performance of their promises and agreements. FIE is not responsible for and does not guarantee the accuracy of users’ postings and communications or that a buyer or seller will perform a contract.

By using the System, Participants agree to this Participation Agreement. An individual user who logs on thereby agrees to the Participation Agreement both on behalf of himself or herself individually, and also on behalf of any company or organization the Participant is acting for.

Commitments and Policies

By using FIE, a Participant agrees:

- to the disclosure of listing and order information and contact information
- to abide by laws, regulations, and FIE policies and procedures
- to post only accurate truthful information.

Participant also agrees NOT to use FIE or its website to:

Upload, post, email or otherwise transmit 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;

Harm minors in any way;

Impersonate any person or entity, including, but not limited to, an official of FIE, or falsely state or otherwise misrepresent Participant’s affiliation with a person or entity;

Forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through FIE;

Use any FIE application or any information or software associated with the Platform for any purpose other than negotiating, contacting or agreeing with parties consistent with the purposes and policies of FIE;

Upload, post, email or otherwise transmit any content that Participant does not have a right to transmit 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);

Upload, post, email or otherwise transmit any content that infringes any patent;

Upload, post, email or otherwise transmit any trademark, trade secret, publicity, moral, database, copyright or other proprietary rights ("Rights") of any person or party;

Upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes" or use any robot, spider, or other automated means to access FIE;

Upload, post, email or otherwise transmit 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;

Disrupt the normal flow of dialogue, or otherwise act in a manner that negatively affects other users' ability to engage in real time communications;

Interfere with or disrupt FIE or its Web Site or servers or networks connected to FIE, or disobey any requirements, procedures, policies or regulations of networks connected to FIE's system or Web Site;

Violate any applicable local, state, national or international law or regulations;

"Stalk" or otherwise harass another participant;

Monitor or copy our website or our System, or the content contained therein using any robot, spider, other automatic device, or manual process;

Harvest or otherwise collect information about users except for the purpose of negotiating, contacting and/or agreeing with parties consistent with the purposes and policies of FIE;

Disclose, sell, rent, or distribute a user's information to a third party for purposes unrelated to FIE;

Use user information for marketing purposes, via electronic or other means, unless you obtain the consent of the specific user to do so.

If FIE believes a Participant is acting inconsistently with the purposes or policies of this System it may, in its sole and unfettered discretion limit or terminate a Participant's access to FIE, delay or remove listings, and/or take other steps it deems appropriate.

FIE has the right, with or without cause, to modify, or terminate all or part of its services at its discretion.

Content (Information)

As a buyer, seller or supplier of products or services, you agree to ensure that content directly associated with your listings is accurate. FIE takes no responsibility for any content provided by you or any third party. You represent and warrant that, for all information you provide on the Platform or otherwise as a result of contacts made directly or indirectly through FIE, you own or otherwise control all necessary rights to provide it and to meet your obligations under this Participation Agreement. You represent and warrant that use of any such content (including derivative works) by FIE, its users, or others in contract with FIE, does not and will not infringe any Rights of any third party.

FIE does not promise that the content provided through it will always be available, accurate, complete, and up to date.

You agree that FIE is not responsible for examining or warranting the postings or information provided by other parties on or through it, and that you will not attempt to hold FIE liable for inaccuracies.

When you provide information using FIE, you grant FIE a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise any and all Rights, including intellectual property rights, you have in that information in any media known now or developed in the future. To the fullest extent permitted under applicable law, you waive your right to enforce your Rights in that information against FIE, its assignees, its sublicensees, and their assignees.

The name "Alt-Source: The Food Industry Exchange," "FIE," "The Seam," and other marks, logos, designs, and phrases that we use in connection with FIE are trademarks, service marks, or trade dress or trade names of The Seam, LLC in the U.S. and other countries. They may not be used without the express written prior permission of The Seam, LLC.

Notice for Claims of Intellectual Property Violations

We respond to notices of alleged Intellectual Property violations and alleged copyright infringement under the United States Digital Millennium Copyright Act. If you believe that your intellectual property rights or copyrights have been infringed, please notify The Seam Toll-Free: +1.877.280.3413 or by email at info@theseam.com.

Authorization to Contact You; Analyzing Message Content

FIE may contact you at any telephone number and other contact information that you have provided us, to: (i) notify you regarding your account; (ii) troubleshoot problems with your account; (iii) resolve a dispute; (iv) collect a debt; (v) poll your opinions through surveys or questionnaires; or (vi) as otherwise necessary to service your account or enforce this Participation Agreement, our policies, applicable law, or any other agreement we may have with you. FIE may also contact you for marketing purposes. Our collection, use, disclosure, retention, and protection of your personal information is governed by the [User Privacy Notice](#).

FIE may share your telephone number and other contact information with other users of FIE to facilitate communication for buyer, seller or supplier products and services.

FIE's automated systems may scan and analyze the contents of messages sent through its notifications and messaging platform, including messages between users, to detect and prevent fraudulent activity or violations of FIE's Participation Agreement, including the incorporated terms, notices, rules, and policies. This scanning and analysis may occur before, during, or after the message is sent, or while in storage. FIE may store message contents, to conduct this scanning and analysis.

Changes in Service.

FIE reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, FIE system or FIE's Web Site (or any part thereof) with or without notice. Participant agrees that FIE shall not be liable to Participant or to any third party for any modification, suspension, or discontinuance of FIE or FIE's Web Site.

Disclaimer of Warranties; Limitation of Liability.

FIE cannot and does not guarantee the continuous operation of or access to our service. Requests and offers for products and services and other notification functionality in FIE's applications may not occur in real time. Such functionality is subject to delays beyond FIE's control.

You agree that you are making use of our Services at your own risk, and that they are being provided to you on an "AS IS" and "AS AVAILABLE" basis. Accordingly, to the extent permitted by applicable law, WE EXCLUDE ALL EXPRESS OR IMPLIED WARRANTIES, TERMS AND CONDITIONS INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

In addition, to the extent permitted by applicable law, WE (including FIE, its owners and affiliates, the Sponsoring Organizations, and our and their officers, directors, agents and employees) are not liable, and you agree not to hold us responsible, for any damages or losses (including, but not limited to, loss of money, goodwill or reputation, profits, other intangible losses, or any special, indirect, or consequential damages) resulting directly or indirectly from your use of or your inability to use the Platform, System and services.

Regardless of the previous paragraphs, if WE (as defined above) are found to be liable, our liability to you or to any third party is limited to the greater of (a) the amount of fees which you paid to FIE in the 12 months prior to the action giving rise to the liability, or (b) \$200.

Release

If you have a dispute with one or more users, you release FIE (and its owners, and subsidiaries, the Sponsoring Organizations, and our and their respective officers, directors, employees and agents) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes. In entering into this release you expressly waive any protections (whether statutory or otherwise) that would otherwise limit the coverage of this release to include only those claims which you may know or suspect to exist in your favor at the time of agreeing to this release.

Indemnity

You will indemnify and hold US (FIE and its owners, affiliates and the Sponsoring Organizations, as well as our and their respective officers, directors, employees, agents) harmless from any claim or demand, including reasonable legal fees, made by any third party due to or arising out of your breach of this Participation Agreement, your improper use of FIE, use by other parties of your password, or your breach of any law or the rights of a third party.

Disputes Between Participants

Disputes between participants shall be resolved solely between them in whatever forum and under whatever law may be applicable to their negotiations and /or their agreement. You will not make FIE and/or its owners, affiliates and the Sponsoring Organizations, and FIE's and their respective officers, directors, employees, agents a party to such disputes. The Uniform Commercial Code applies to the agreement and negotiations between Participants, unless they agree otherwise.

Disputes With FIE, Law Applicable, and Arbitration

Any Dispute between you and FIE, arising under or in connection with this agreement, including issues of arbitrability, shall be resolved by final and binding arbitration in Memphis, Tennessee in accordance with and subject to the Arbitration Rules of the American Arbitration Association ("AAA") then in effect.

Disputes will be asserted and resolved on an individual case by separate case basis, and not by a class action. No party's claim may be joined with another party's claim for any purpose.

Discovery shall be allowed in connection with arbitration to the extent consistent with the purpose of the arbitration and as allowed by the arbitrators. Judgment upon the award rendered in any arbitration may be entered in any court of competent jurisdiction, or application may be made to such court for a judicial acceptance of the award and enforcement, as the law of the state having jurisdiction may require or allow.

If the value of the relief sought is \$10,000 or less, you or FIE may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on you and FIE subject to the arbitrator's discretion to require an in-person hearing, if the

circumstances warrant. In cases where an in-person hearing is held, you and/or FIE may attend by telephone, unless the arbitrator requires otherwise.

The arbitrator will decide the substance of all claims in accordance with applicable law, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator's award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction

Unless you and FIE agree otherwise, in the event that the Agreement to Arbitrate above is found not to apply to you or to a particular claim or dispute, you agree that any claim or dispute that has arisen or may arise between you and FIE must be resolved exclusively by a state or federal court located in Shelby County, Tennessee. You and FIE agree to submit to the personal jurisdiction of the courts located within Shelby County, Tennessee for the purpose of litigating all such claims or disputes. Both you and FIE waive trial by jury.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, exclusive of choice-of-law rules, except that the Federal Arbitration Act shall apply concerning arbitration.

Severability

Except as otherwise provided in this Participation Agreement, if any provision of this Agreement is held to be invalid, void or for any reason unenforceable, such provision shall be struck out and shall not affect the validity and enforceability of the remaining provisions.

Headings

Headings are for reference purposes only and do not limit the scope or extent of such Section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. We do not guarantee we will take action against all breaches of this Agreement.

Amendments to This Participation Agreement

We may amend this Agreement at any time by posting the amended terms on the FIE website. Our right to amend the Agreement includes the right to modify, add to, or remove terms in the Participation Agreement. We will provide you 5 calendar days' notice by posting the amended terms. The amended terms will only apply to transactions and actions occurring after that notice period. Your continued access or use of FIE constitutes your acceptance of the amended terms. We may also ask you to acknowledge your acceptance of the Participation Agreement through an electronic click-through. This Agreement may not otherwise be amended except through mutual agreement by you and FIE.

Both Individuals and Entities using FIE agree to these terms.

If you create or use an account on behalf of a company, association, or business entity, you represent that you are authorized to act on behalf of such entity and you agree that both you , individually, and the entity, are bound by this Participation Agreement. Individuals accessing FIE

via the account of an entity agree in their individual capacity to the terms of this Participation Agreement.

Entire Agreement

This Agreement and all terms and policies posted on FIE set forth the entire understanding and agreement between you and FIE and supersedes all prior understandings and agreements of the parties.

Termination.

Termination of access to FIE and/or termination of this agreement will not affect rights and obligations arising or created before such termination.

If you are a California resident, in accordance with Cal. Civ. Code Sec. 1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

The Seam's Privacy Notice is available at:

https://www.theseam.com/dist/resources/privacy_policy.pdf

Acknowledgment of The Seam's Ownership.

Participant acknowledges The Seam's exclusive ownership of the FIE site, its website, its logo, the name "Alt-Source: The Food Industry Exchange", its trademarks "The Seam," The Seam's system, The Seam's website, The Seam's domain names "The Seam.com", "The Seam.org", "The Seam.ws", and "The Seam.net", and the associated URL www.TheSeam.com, The URL www.foodindustryexchange.com (or any successor URL designated by The Seam in its reasonable discretion) and, to the extent unique and/or proprietary to The Seam or its licensors, all text, images, graphics, sounds, files, video, designs, animation, layout, color schemes, adaptations, logos, designs, ideas, concepts, methods, techniques, and processes relating to the design, development, operation, content and identification of The Seam system and web site, and all patent, copyright, trade secret, trade name, trademark, and service mark rights and all other intellectual property rights associated therewith.

Participant acknowledges and agrees that FIE owns the site to which access is granted under this Participation Agreement. The site contains proprietary and confidential information that is protected by intellectual property laws, including those related to patent, copyright, trade secret, trade name, trademark and service marks. Neither the site nor its contents, nor its look and feel, may be copied, reproduced, modified or used for derivative or other works. Third party provided advertising and content are also protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws.

The FIE site may be used only for the purposes described in this Participation Agreement as modified from time to time, and any other use is strictly prohibited. FIE grants Participant a limited, personal, non-transferable and non-exclusive right and license to use the FIE software for the purposes of FIE and none other. Participant may not, without FIE's prior written consent resell

or transfer its license. Participant may not access FIE by any means other than through the interface that is provided by FIE for use in accessing the service.

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