



TERMS OF USE AND SERVICE POLICIES FOR CG HUB AND COMET

Access to the CG HUB OR COMET platform is specifically conditioned on your compliance with and acceptance of the following Terms of Use and Service Policies. If you do not agree to these Terms of Use and Service Policies, or if you are unable to comply with them, then you may not use the CG HUB OR COMET platform. In these Terms of Use and Service Policies, we may use the term “you,” “user” or “users” to refer to users of the CG HUB OR COMET platform.

1. The Service

TruMarx Data Partners, Inc (“TDP”) makes available electronically a service that provides a private marketplace and permits TDP’s subscribers to make and respond to offers for, negotiate and agree on the terms of, and enter into user-defined, bilateral transactions in certain commodities with other of TDP’s users over the Internet (the “Service”). TDP grants to users a limited, personal, non-exclusive, non-transferable, worldwide license (without the right to sublicense) to access and use the Service, on the terms set forth in these Terms of Use and Service Policies. TDP may revise the Terms of Use and Service Policies from time to time by posting notice of any changes on the Service or by otherwise notifying subscribers in writing or electronically.

2. Responsibilities of Subscriber

a. General. Access to and use of the Service must be in accordance with, and is conditioned on compliance with, these Terms of Use and Service Policies, which incorporate by reference such other policies as TDP may adopt from time to time in accordance herewith.

b. System Administration. Users of the Service are solely and exclusively responsible for all access and use of the Service (and for any resulting transaction or trade with any third party) on their behalf, or on behalf of their system administrators, or designated users or any use that occurs through any logons or IDs provided to the user by TDP. TDP shall not be liable or responsible for any activity, loss, or damage arising from any unauthorized access to or use of any such logons or IDs or resulting from any failure by users to establish or assign an appropriate scope of authority or permission, or appropriate security controls, restrictions, or limitations, with respect to any given user, logon, or ID. Users must immediately notify TDP of any known or suspected unauthorized access to or use of their accounts, logons or IDs of which they become aware.

c. Third-Party Relationships. Users are solely responsible for establishing, maintaining, and complying with the terms of contractual relationships with third parties that are also users of the Service (including, but not limited to, entering into applicable master agreements with third parties, ensuring that the applicable third parties are qualified to enter into the transactions they negotiate on the Service, ensuring compliance of such transactions with applicable law, and setting credit exposure limits with respect to such third parties). Such contractual relationships shall provide the underlying terms between users and their counterparties for any transactions between them conducted through the Service. Users expressly acknowledge that: (a) TDP is only providing a medium by which users of the Service may negotiate with one another and enter into transactions; and (b) unless otherwise provided in these Terms of Use and Service Policies, TDP shall not be liable in any way for the contracting process between users or for any obligation, or any breach of any obligation, relating to any transactions or contractual relationships between users of the Service, regardless of whether the Service is used in connection therewith.



d. Acceptable Use. Users may only use the Service in a lawful manner consistent with applicable law and may enter into transactions with other users through the Service only for lawful and legitimate purposes. Users may not, on or through the Service: (a) offer, promote, engage in, or provide instruction in illegal activities; (b) use, display, or make available any information or material that is false or misleading, that violates any rights of others, or that presents or portrays TDP or any other user of the Service in other than a professional, non-disparaging manner; or (c) intentionally interfere with, disrupt, interrupt, restrict, prevent, or disable access to or use of the Service or any components thereof, any other resources used by TDP to provide the Service, or the receipt or utilization of the Service, whether by you or any other subscribers or user of the Service. By using the Service, user represents that it will comply with all applicable laws and regulations in connection with its use of the Service and will not use or permit the use of the Service for any unlawful or unauthorized purpose.

3. Fees and Payment

a. TDP will invoice Subscriber for Fees payable with respect to use of the Service. All invoiced amounts shall be due and paid by Subscriber within thirty (30) days of invoicing. Any undisputed invoiced amounts not paid by the applicable due date shall thereafter accrue interest at a rate equal to the lesser of: (a) one and one-half percent (1.5%) per month; and (b) the highest rate allowed by law.

b. Fees are due and payable for any transaction from an origination on CG HUB OR COMET, if the transaction is done with a Counterparty Company included in the CG HUB OR COMET origination, whether or not the transaction is completed on CG HUB OR COMET.

4. Proprietary Rights

TruMarx Data Partners, Inc (“TDP”) makes available electronically a service that provides a private marketplace and permits TDP’s users to make and respond to offers for, negotiate and agree on the terms of, and enter into user-defined, bilateral transactions in certain commodities with other of TDP’s users over the Internet (the “Service”). Each user acknowledges and agrees that the Service is the valuable proprietary and intellectual property of TDP, and that TDP and its applicable licensors are and shall remain the sole and exclusive owners of the Service, all components, materials, works, products, inventions, and ideas contained therein, and all intellectual property and proprietary rights pertaining thereto. TDP and its applicable licensors expressly reserve and retain all rights to the Service (and all components thereof) and no implied license to, or interest in, any such rights shall arise as a result of or in connection with the Terms of Use and Service Policies.

5. Confidential Information

Each user acknowledges that certain Confidential Information of other users and of TDP will be used and disclosed in connection with use of the Service. For the purposes of these Terms of Use, “Confidential Information” means: (a) materials or information relating to the business or operations of TDP or any user that are not generally known to others in the same industry, including, but not limited to, know-how, trade secrets, technical data, drawings, designs, processes, procedures, models, manuals and documentation, trading-related data, financial data, business data, marketing and product-related data, future plans, customer and supplier lists and personnel-related information; (b) the Service and all portions and components thereof; and (c) transactional data and associated information that is transmitted or processed by users on or through the use of the Service. Each user will maintain the Confidential Information of the other party to any transaction and of TDP in strict confidence, using the same care as they respectively exercise with regard to their own confidential information of a similar nature, but at least a reasonable standard of care. Without the prior written consent of the other party, neither you nor TDP shall use or disclose, or permit to be used or disclosed, any Confidential Information of the other except as necessary



and appropriate for performance hereunder or as required by law or legal process. Notwithstanding the foregoing, Confidential Information shall not include information to the extent that such information: (i) is already known to a party free of any restriction at the time it is disclosed by the other party hereunder; (ii) is or becomes publicly known or available through no wrongful act or breach of the Terms of Use; or (iii) is rightfully received by a party from a third party without restriction. You and TDP agree that any breach by either party of this Section shall cause irreparable injury to the other party and that, in such an event, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall each be entitled to seek injunctive relief against any threatened or continuing such breach, without the necessity of proving actual damages or posting bond.

6. Prohibited Activities

Users may not: (a) modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works of, or otherwise attempt to derive any source code of or relating to, the Service, any components thereof, or any other resources used by TDP to provide the Service; (b) alter or copy, or permit any person or entity to alter or copy, any components of the Service; or (c) distribute, resell, assign, transfer, lease, rent, license, sublicense, disclose, or encumber the Service or any components thereof, or any other resources used by TDP to provide the Service, or at any time make any portion or components of the Service available in a timesharing or service-bureau environment. Users acknowledge and agree that any breach by them, or any of their agents, employees, or representatives of this Section will cause irreparable injury to TDP and that, in addition to any other remedies that may be available, in law, in equity, or otherwise, TDP shall be entitled to seek and obtain injunctive relief against any threatened or continuing such breach.

7. Disclaimers

a. Disclaimer of Warranties. TDP MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICE OR ANY OTHER MATERIALS PROVIDED BY TDP, AND ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE (INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE), WITH RESPECT TO THE TERMS OF USE AND SERVICE POLICIES, THE SERVICE, AND ANY OTHER MATERIALS PROVIDED OR MADE AVAILABLE BY TDP ARE EXPRESSLY DISCLAIMED. THE SERVICE AND ANY OTHER MATERIALS PROVIDED BY TDP ARE PROVIDED “AS IS” AND “WITH ALL FAULTS,” WITHOUT WARRANTIES OF ANY KIND.

b. Use and Operation of the Service. TDP EXPRESSLY DOES NOT REPRESENT, WARRANT, OR COVENANT THAT THE SERVICE SHALL BE PROVIDED ON AN UNINTERRUPTED OR ERROR-FREE BASIS, THAT ALL ERRORS OR DEFECTS IN THE SERVICE WILL BE CORRECTED, OR THAT THE SERVICE WILL BE APPROPRIATE FOR ANY PARTICULAR USE OR PURPOSE TO WHICH YOU OR ANY THIRD PARTY MAY CHOOSE TO PUT IT. TDP SHALL NOT HAVE ANY OBLIGATION OR LIABILITY WITH RESPECT TO INACCURACIES, ERRORS, OR OMISSIONS IN DATA OR INFORMATION PROVIDED BY THIRD PARTIES IN CONNECTION WITH THE USE OF THE SERVICE, OR IN THE TRANSMISSION OF ANY SUCH DATA OR INFORMATION. TDP SHALL NOT BE LIABLE FOR ANY LOSSES, CLAIMS, OR DAMAGES ARISING FROM ANY USER’S USE OF THE SERVICE OR OF ANY OTHER MATERIALS PROVIDED BY TDP.

c. Use of the Service. You shall indemnify, defend, and hold TDP harmless from and against any claims, actions, liabilities, losses, and damages, and shall pay all costs and expenses (including attorneys’ fees), arising out of any third-party claim relating to or arising out of your use of the Service or any transactions offered, negotiated, or executed by you on or through the use of the Service.



8. Limitations of Liability

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (A) NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, OR SIMILAR DAMAGES IN CONNECTION WITH THE TERMS OF USE AND THE SUPPLEMENTAL TERMS INCORPORATED THEREIN; AND (B), EACH PARTY'S MAXIMUM, CUMULATIVE, AND AGGREGATE LIABILITY UNDER THE TERMS OF USE WILL NOT EXCEED THE SUM OF (I) THE TOTAL AMOUNT OF FEES PAYABLE, PLUS (II) THE TOTAL AMOUNT OF FEES PAID BY YOU TO TDP FOR THE MOST RECENT THREE (3) CONSECUTIVE CALENDAR MONTHS.

9. Support

TruMarx will maintain infrastructure as required for the normal operation of the Service in a production environment. This infrastructure will include, but may not be limited to, all hardware and software necessary to assure that the Service will be highly available, for example: internet connections, web and data servers, and related software (e.g., operating systems, etc.), necessary for the operation of the Service. TruMarx will also maintain fully-functional, redundant service-related infrastructure in the TruMarx data center.

TruMarx will provide comprehensive software and customer support with respect to the Service that is based on a proactive and responsive support methodology. User support will include the following components:

1. Experienced and trained TruMarx support personnel who will respond to all support issues. (No third-party support)
2. Telephone and web-based technical support from 8:00 AM through 6:00 PM central time.
3. Calls logged and issues resolved on a priority basis, according to severity, as defined in section 2 below.
4. Initial user training of a web-based system administrator interface.
5. Continuous maintenance of the on-site infrastructure related to the Service at the data center.
6. Automatic software upgrades and fixes.
7. On-site support can be scheduled where required. This is billable work that would be charged at the TruMarx standard rates, including travel and expenses, and will only be completed after there is mutual written agreement between TruMarx and the requesting customer.
8. Enhanced support is available for customers whose requirements dictate more. Custom quotes will be provided based on customer needs.