

## TERMS OF SUBSCRIPTION AGREEMENT

Welcome to TDX! We are pleased to have you as a TDX client for your Company's ACE data. All use of the TDX site(s) and services (collectively, the "Services") is subject to the following terms and conditions (this "Agreement").

"TDX," "We" and "Our" refer to Trade Data Exchange, LLC. "You" means the company for which you are engaged as an employee, consultant or otherwise, unless the context refers to action taken or to be taken by you as an individual on behalf of the company for which you are engaged.

PLEASE READ THESE TERMS CAREFULLY. BY SUBMITTING AN ORDER FORM TO TDX (WHETHER ONLINE OR OFFLINE), OR BY OTHERWISE UTILIZING THE TDX SERVICES, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. If you do not wish to agree to this Agreement, do not access or use any part of the Services.

### **A. Selection of Services; Orders**

The type of Services selected, pricing, payment and other related terms are identified in an additional subscription form that you need to complete (whether offline or online) and each such subscription form is incorporated as an integral part of Agreement.

During the term of this Agreement, TDX may develop and improve, additional or new Services (e.g., adding types of data or data from other countries). TDX is not obligated to offer any of such Services to you, but if TDX does elect to do so, you may select such Services through a separate subscription form at TDX's then current pricing.

### **B. Your Data**

As between the parties, You own all data that you upload – or authorize TDX to upload – to the Service. You are responsible for ensuring the accuracy of such data and TDX makes no representations or warranties with respect to the accuracy thereof. TDX will use commercially reasonable efforts consistent with prevailing industry standards for our type of company and this type of data service to maintain the confidentiality of your data.

### **C. Right to Access the Services; Restrictions on Use**

During the term of the applicable subscription form, TDX grants you the non-transferrable, non-exclusive right to access the Services solely for your internal business use. *PLEASE NOTE:* TDX reserves the right to require payment of the applicable fees prior to making the Services accessible to you.

You may not, and may not permit any third party to: (a) modify, adapt, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Services (except as expressly permitted by applicable law); (b) create adaptations or derivative works of the Services or any outputs generated by the Services; (c) remove, alter or obscure any proprietary notice or identification, including copyright or trademark notices, contained in or on the Services; (d) provide, lease, use or lend the Services for timesharing, subscription service or service bureau purposes or for the benefit of any third party; (e) publish the results of any benchmark tests run on the Services; (f) restrict or inhibit the use of the Services by others or otherwise engage in conduct that adversely impacts operations of the Services; (g) upload or otherwise transmit files that contain a virus or corrupted data; or (h) access or use the Services in connection with developing, modifying or assisting a third party in developing or modifying any product or service competitive with the Services.

The Services constitute the confidential, proprietary technology of TDX and its suppliers and you agree to keep the Services and all materials related thereto confidential. You may not publish or distribute copies of the Services or any

outputs of the Services; provided, however, that you may download and print a reasonable number of the outputs of the Services (e.g., dashboards, reports) for internal use only.

**D. Availability**

In the event of material interruptions in Services that make the Services unavailable for your use for at least 7 business days, other than for scheduled maintenance or reasons beyond TDX's reasonable control, TDX will either and at its option, extend the term of the applicable Services by a period equal to the interruption of service or refund to you a proportionate amount of your subscription price based on the number of days of the interruption of Services in relation to the number of days in the entire subscription term. THE OPTIONS PROVIDED IN THE PRECEDING SENTENCE ARE TDX'S EXCLUSIVE LIABILITY TO YOU AND YOUR EXCLUSIVE REMEDY FOR INTERRUPTED SERVICE OTHER THAN TERMINATION PURSUANT TO CLAUSE E.

**E. Termination**

Either party may terminate this Agreement in the event the other party materially breaches its obligations under this Agreement and fails to cure within thirty (30) days' notice thereof. In addition, TDX may suspend your access to the Services in the event that you are late on payment, misuse the Services in violation of this Agreement, or utilize the Services in a manner that TDX believes places the integrity or security of the Services at risk.

Upon any termination or expiration of this Agreement for the applicable subscription form, you shall promptly cease use of the Services. TDX has the right to destroy all data associated with your account.

**F. Ownership of the Services**

As between the parties, TDX retains all right, title and license to the Services and all technology utilized to deliver the Services. The entire contents of the Services (including all information, software, text, displays, images and audio except your data) and the design, selection and arrangement thereof, are proprietary to TDX and/or its licensors and are protected by United States and international laws regarding copyrights, trademarks, trade secrets and other proprietary rights.

**G. Not Legal or other Professional Advice**

The Services and all outputs from the service are provided for informational purposes only. TDX, its service providers and licensors are not providing – and the Services do not constitute – legal, regulatory or customs compliance/advice or other business advice or guidance. The Services and its outputs are not a substitute for professional judgement and advice. All decisions made by you with respect to analysis or use of the Services are solely the responsibility of your organization in its sole discretion. In any event, TDX and its service providers are not responsible for your reliance or non-reliance on the Services or any outputs therefrom.

**H. Disclaimer; Limitation of Liability**

TDX DOES NOT WARRANT THAT ITS SERVICES WILL BE ERROR FREE IN ANY RESEPECT, UNINTERRUPTED, OR DELIVERED AS SCHEDULED. TDX WILL NOT REVIEW YOUR DATA FOR ACCURACY OR PRESERVE OR MAINTAIN YOUR DATA WITHOUT LOSS. TDX DOES NOT WARRANT THAT ITS SECURITY PROCEDURES AND THAT OF ITS SERVICE SUPPLIERS, WILL BE ERROR FREE, AND THAT TRANSMISSIONS AND ACCESS TO DATA WILL ALWAYS BE SECURE. ACCORDINGLY, THE SERVICES ARE PROVIDED ON AN "AS IS, "AS AVAILABLE" BASIS; WE AND OUR SERVICE SUPPLIERS AND LICENSORS EXPRESSLY DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER. OUR SERVICE PROVIDERS AND LICENSORS DO NOT GRANT YOU ANY WARRANTY AND SHALL NOT HAVE ANY DIRECT OR INDIRECT LIABILITY TO YOU.

TDX AND ITS SERVICE SUPPLIERS AND LICENSORS WILL NOT HAVE ANY LIABILITY ARISING OUT OF OR IN CONNECTION WITH ITS SERVICES OR THIS AGREEMENT FOR LOSS OF USE, INACCURATE OR LOST DATA, PROFITS, SECURITY BREACHES, DELAYS OR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES.

TDX'S AND ITS SERVICE SUPPLIERS' AND LICENSORS' MAXIMUM AGGREGATE LIABILITY TO YOU IN CONNECTION WITH THIS AGREEMENT (REGARDLESS OF THEORY OF LAW, INCLUDING TORT, NEGLIGENCE, BREACH OF CONTRACT OR OTHERWISE) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE FEES ACTUALLY PAID BY YOU TO TDX IN CONNECTION WITH THE APPLICABLE SERVICE DURING THE PRECEDING TWELVE (12) MONTHS.

#### **I. Amending this Agreement**

TDX may revise and update this Agreement at any time without notice by posting the amended terms to the Services portal. Your continued use of the Services means that you accept and agree to the revised Agreement. If you disagree with the Agreement (as amended from time to time) or are dissatisfied with the Services, your sole and exclusive remedy is to discontinue using the Services. THE MOST CURRENT VERSION OF THIS AGREEMENT, WHICH SUPERSEDES ALL PREVIOUS VERSIONS, CAN BE REVIEWED BY CLICKING ON THE "TERMS OF USE" on TDX website Subscription tab (URL).

#### **J. Governing Law; Venue; Notice**

This Agreement will be governed by Delaware law with respect to agreements made and to be performed in that State (without giving effect to the principles of that State with regard to conflicts of laws). You and we each irrevocably agree that any legal action or proceeding arising out of or related to this Agreement shall only be brought in the State or Federal Court for Wilmington, Delaware. You and we further agree each party to this Agreement will be subject to service of process and other procedural rules of the Courts in those locations, and accordingly, each party irrevocably submits to the jurisdiction of those Courts in any action brought by or against it.

Any notice under this Agreement shall be in writing. Notices may be provided to you for the email address designated in the subscription form and for us at the email address indicated in our website. Notices will be deemed given on the first business day after being sent.

#### **K. Miscellaneous**

These terms, together with the subscription form, constitute the entire agreement, superseding all prior written and oral communications. The terms and conditions included on any purchase order sent by you to us shall be of no force and effect. If any provision of this Agreement is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose. The other provisions of this Agreement shall remain in full force and effect. Our failure to insist upon or enforce strict performance of any provision of this Agreement shall not constitute a waiver of the provision. Neither a course of dealing or conduct between you and TDX nor any trade practices shall be deemed to modify this Agreement.