

# **Terms of Service**

**Last Updated: 1-4-10**

## **INTRODUCTION**

### **About the US BioFuels Exchange (the US-BX)**

The US-BX is the most efficient and exciting way to **buy and sell** Ethanol and Biodiesel worldwide. The US-BX is open to Biofuel Producers (Biodiesel and Ethanol), Brokers, Blenders, Distributors, Importers, Exporters and Marketers (resellers). Active accounts and Login information may not be shared with, used by and/or transferred to any and all non-approved party. Both single and multiple company accounts are permissible.

The US-BX employs its own proprietary trading platform. The trading platform, including methods of trading and displaying listings, content, organization, graphics, design, US-BX notification emails, and other matters related to the US-BX are protected under copyright, trademark, and other proprietary and intellectual property rights. The copying, redistribution, or publication by you of any such matters or part of the US-BX is strictly prohibited. You do not acquire ownership rights to any content, document, or other materials viewed through the US-BX. The posting of information or materials on the US-BX does not constitute a waiver in any right of such information or materials. Some information and materials found on the US-BX is the copyrighted work of third parties.

The US-BX strives for fairness, honesty and accuracy. The US-BX expects this from itself and all of its members and, therefore, in the interest of all of its members, the US-BX enforces a zero-tolerance policy when addressing violations of its Terms of Service. All Buyers and Sellers on the US-BX are approved members in good standing.

The US-BX's proprietary trading platform is designed with the flexibility to address and accommodate the inevitable growth, evolution and changes in the dynamic BioFuels industry and, therefore, the Terms of Service for using the US-BX may also change from time to time.

### **How the US-BX works**

The US-BX's proprietary trading platform keeps Buyers and Sellers anonymous until price and/or quantity are agreed upon. Since the US-BX operates with anonymity, users are strictly prohibited from posting company and personal names, addresses, email addresses, phone Numbers, web addresses, hyper links to outside web pages, etc.

Users with **Biofuels to SELL** Post a "Lot for Sale" and interested Buyers either BUY the "Lot for Sale" or "Make an Offer" of a different price and/or quantity for the "Lot for Sale".

Likewise, Users looking for specific **Biofuels to BUY** post a "Lot Wanted", including the price they wish to pay, quantity, specifications, etc., needed and Sellers with Biofuels meeting those requirements "Make an Offer" of their available price and/or quantity.

Both Parties (Buyer and Seller or Seller and Buyer) are revealed to each the ONLY when price, quantity, terms, present or future date available or date wanted, etc. have been agreed upon. The US-BX charges an exchange fee for this which is due within 5 business days regardless of product pick up or delivery date.

Only members who **post** "Lots for Sale" and "Lots Wanted" are responsible for exchange fees. Users who **buy from** "Lots for Sale" and/or **sell to** "Lots Wanted" pay no exchange fee.

If violations of the Terms of Service occur, US-BX will notify the member committing the violation that any and all existing postings have been cancelled. Learning about the US-BX's trading policies **before** listing an item will assist you in avoiding an accidental violation of the Terms of Service or an existing law or laws. The US-BX's Terms of Service will be updated in response to changes in the marketplace, community and security concerns, so an occasional review of the Terms of Service is recommended.

Please report all TOS violations as well as abusive or deceptive practices to: [abuse@US-BX.com](mailto:abuse@US-BX.com)

### 1) Acceptance of Terms

US-BX.com, including its affiliates and related companies, provides an online resource for facilitating purchase and sale transactions of biofuels, which is referred to hereafter as the "Service", subject to the following Terms of Service ("TOS"). By using the Service in any way, you are agreeing to comply with the TOS and, specifically, to pay US-BX.com for the Service, in accordance with Paragraph 3 below. In addition, when using the Service, you agree to abide by any applicable posted guidelines for all US-BX.com services, which may change from time to time. Should you object to any term or condition of the TOS, any guidelines, or any subsequent modifications thereto, or become dissatisfied with US-BX.com in any way, your only recourse is to discontinue use of US-BX.com. US-BX.com has the right, but is not obligated, to enforce strictly the TOS through self-help, active investigation, litigation and prosecution.

### 2) Definitions of Terms

**Buyer:** a purchaser of a product posted for sale on the US-BX.

**Seller:** a seller of a product posted for sale on the US-BX.

**Lot:** a uniquely numbered quantity/type of biofuel for sale or wanted.

**Lot Wanted:** an interest in BUYING a specific quantity/type of a biofuel.

**Lot for Sale:** an interest SELLING a specific quantity/type of a biofuel.

**Trade Confirmation:** an email notice sent to a buyer and seller confirming their trade.

**But it Now:** the seller's asking price on a lot for sale.

**Make an Offer:** a price offer made by a buyer or sellers to a lot for sale or a lot wanted.

**US-BX Trade:** when a buyer accepts a seller's price and a seller accepts a buyer's price.

**US-BX Exchange Fee:** the fee charged by the US-BX to match buyers and sellers.

### 3) Schedule of Fees

In a trade consummated through the US-BX, the party who posted the **Lot For Sale** or **Lot Wanted** on the US-BX is responsible for payment of the exchange fee. Exchange fees are only charged when a buyer accepts a seller's price and a seller accepts a buyer's price. No exchange fees are charged until there is a successful trade. Please see "**US-BX Trade**" in the definition of terms.

All transaction fees will be invoiced by the US-BX upon confirmation of a transaction and will be due and payable on or before the 5th day following the date of invoice by US-BX. The US-BX's Schedule of Fees is available by clicking the following link: <http://www.us-bx.com/ex/user/fee.php>

### 4) Violation of TOS and Liquidated Damages

Please report any violations of the TOS, abuse, deceptive listings, etc. by emailing to: [abuse@us-bx.com](mailto:abuse@us-bx.com).

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.

US-BX administers the Service in a "zero-tolerance" manner. You understand and agree that any violation of the TOS may result in US-BX taking one or more of the following actions, in its sole discretion:

- a) cancellation of your then-current postings;
- b) limitations of your membership privileges;
- c) suspension of your US-BX membership – a member is suspended from participating on the US-BX site for a fixed period of time, in the sole discretion of the US-BX; and
- d) permanent expulsion from the US-BX – a member is permanently prohibited from participating on the US-BX site and is permanently prohibited from registering a new account on the US-BX, in the sole discretion of the US-BX.

You further understand and agree that, because damages are often difficult to quantify, if it becomes necessary for US-BX to pursue legal action to enforce the TOS, you will be liable to pay the US-BX the following amounts as liquidated damages, which you accept as reasonable estimates of the US-BX's damages for the specified breaches of the TOS:

e) If you post a message that (1) impersonates any person or entity; (2) falsely states or otherwise misrepresents your affiliation with a person or entity; or (3) includes personal or identifying information about another person without that person's explicit consent, you agree to pay the US-BX one thousand dollars (\$1,000) for each such message.

f) If the US-BX establishes limits on the frequency with which you may access the Service, or terminates your access to or use of the Service, you agree to pay the US-BX one hundred dollars (\$100) for each message posted in excess of such limits or for each day on which you access the US-BX in excess of such limits, whichever is higher.

g) If you send unsolicited email advertisements to the US-BX email addresses or through the US-BX's computer systems, you agree to pay the US-BX one hundred dollars (\$100) for each such email.

h) If you post Content in violation of the TOS, other than as described above, you agree to pay the US-BX one hundred dollars (\$100) for each Item of Content posted. In its sole discretion, the US-BX may elect to issue a warning before assessing damages.

i) If you are a Posting Agent that uses the Service in violation of the TOS, in addition to any liquidated damages under clause (h), you agree to pay the US-BX one hundred dollars (\$100) for each and every Item you post in violation of the TOS.

j) If you aggregate, display, copy, duplicate, reproduce, or otherwise exploit for any purpose any Content (except for your own Content) in violation of the TOS without the US-BX's express written permission, you agree to pay US-BX's three thousand dollars (\$3,000) for each day on which you engage in such conduct. You agree that you will not, directly or indirectly, solicit, contact, negotiate or form any agreements to purchase or sell biofuels products with any person previously unknown to you who posts on the US-BX or market any biofuels products to any such person. Otherwise, you agree to pay the US-BX's actual damages, to the extent such actual damages can be reasonably calculated. Notwithstanding any other provision of the TOS, the US-BX retains the right to seek the remedy of specific performance of any term contained in the TOS, or a preliminary or permanent injunction against the breach of any such term or in aid of the exercise of any power granted in the TOS, or any combination thereof.

## **5) Modification to this Agreement**

The US-BX reserves the right, at its sole discretion, to change, modify or otherwise alter these terms and conditions at any time. Such modifications shall become effective immediately upon the posting thereof. You must review this agreement on a regular basis to keep yourself apprised of any changes. You can find the most recent version of the TOS at: <http://www.usbx.com/termsofservice.html>.

## **6) Content**

**6.1 Posting.** You understand that all postings, messages, text, files, images, photos, video, sounds or other materials (the "Content") posted on, transmitted through or linked from the Service, are the sole responsibility of the person from whom such Content originated. More specifically, you are entirely responsible for each individual item (an "Item") of Content that you post or otherwise make available via the Service. You understand that the US-BX does not control, and is not responsible for, Content made available through the Service. Furthermore, the US-BX's web site and Content available through the Service may contain links to other web sites, which are completely independent of the US-BX. The US-BX makes no representation or warranty as to the accuracy, completeness or authenticity of the information contained in any such site. Your linking to any other web sites is at your own risk. You agree that you must evaluate, and bear all risks associated with, the use of any Content, that you may not rely on such Content and that, under no circumstances, will the US-BX be liable in any way for any Content or for any loss or damage of any kind incurred as a result of the use of any Content posted or otherwise made available via the Service. You acknowledge that the US-BX does not pre-screen or approve Content, but that the US-BX shall have the right, but not the obligation, in its sole discretion, to refuse, delete or move any Content that is available via the Service, for violating the letter or spirit of the TOS or for any other reason.

**6.2 Product Posting.** You understand and agree that, in posting any product for sale, you warrant and represent that (a) you have the immediate ability to deliver product in accordance with the terms of the posting; (b) the product delivered in response to the Posting will conform in all material respects to the product described in the posting; (c) you will deliver the product purchased free of all liens or claims of

any description and shall pass good and merchantable title to the product at the time of delivery; and (d) in the event of a dispute between the person posting product for sale and a purchaser with regard to any aspect of the transaction, you will (i) immediately advise the US-BX of the existence and nature of the dispute, and, if not settled, (ii) submit the matter to mediation with the US-BX in order to attempt to settle the dispute, as soon as practicable, but, in any event, not more than thirty (30) days from the date of the purchase and sale transaction giving rise to the dispute. In the event the dispute is not resolved by mediation or other wise, you agree to submit the dispute to binding arbitration in accordance with the terms and conditions of the paragraph 3.4 below.

**6.3 Product Purchasing.** You understand and agree that in purchasing product on the US-BX, you warrant and represent that (a) you have readily available funds for payment for the product purchased; (b) that you will pay such purchase price in a timely fashion in accordance with the payment terms set forth in the Posting; and (c) in the event of a dispute between the you and the person posting the product for sale with regard to any aspect of the transaction, you will (i) immediately advise the US-BX of the existence and nature of the dispute, and, if not settled, (ii) submit the matter to mediation with the US-BX in order to attempt to settle the dispute, as soon as practicable, but, in any event, not more than thirty (30) days from the date of the purchase and sale transaction giving rise to the dispute. In the event the dispute is not resolved by mediation or otherwise, you agree to submit the dispute to binding arbitration in accordance with the terms and conditions of the paragraph 3.4 below.

**6.4 Arbitration.** In the event any dispute arising from a purchase and sale transaction on the US-BX has not been settled through mediation or otherwise, you agree to submit any such dispute to binding arbitration. Arbitration shall be requested by written Notice of Intent to Arbitrate given no later than ninety (90) days from the date of the purchase and sale transaction giving rise to the dispute. Such Arbitration will take place before a single Arbitrator who shall be appointed by the US-BX and shall be held at such location as is determined by the US-BX to be the most convenient for all parties. The Arbitrator shall be an attorney at law licensed to practice in the location chosen for the Arbitration. The Arbitrator shall adopt the Rules of Commercial Arbitration of the American Arbitration Association as applied in the place of the Arbitration. The Arbitrator may award reasonable attorneys fees to the prevailing party. The award of the Arbitrator shall be binding and a judgment can be obtained on the award in any court of competent jurisdiction.

## **7) Third-Party Content, Sites and Services**

The US-BX's web site and Content available through the Service may contain features and functionalities that may link you or provide you with access to third-party content that is completely independent of the US-BX, including web sites, directories, servers, networks, systems, information and databases, applications, software, programs, products or services and the Internet as a whole. Your interactions with organizations and/or individuals found on or through the Service, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any of these third parties. You agree that the US-BX shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings. If there is a dispute between participants on the US-BX's web site, or between users and any third party, you understand and agree that the US-BX is under no obligation to become involved. In the event that you have a dispute with one or more other users, you hereby release the US-BX, its officers, employees, agents and successors in rights from claims, demands and damages (actual and consequential) of every kind or nature, known or unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to such disputes and/or the Service.

## **8) Privacy and Information Disclosure**

The US-BX has established a Privacy Policy to explain to users how their information is collected and used, which is located at the following web address: <http://www.us-bx.com/privacy.html>

Your use of the US-BX's website or the Service signifies acknowledgment of, and agreement to, our Privacy Policy. You further acknowledge and agree that the US-BX may, in its sole discretion, preserve or disclose your Content, as well as your information, such as e-mail addresses, IP addresses, time stamps, and other user information, if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: comply with legal process; enforce the TOS; respond to claims that any Content violates the rights of third-parties; respond to claims that contact information (e.g. phone number, street address) of a third party has been posted or otherwise transmitted without its consent or as a form of harassment; protect the rights, property, or personal safety of the US-BX, its users or the general public.

## 9) Conduct

You agree to act in good faith not violate to the following Conduct and Trading Rules by:

- a) failing to deliver payment for items purchased by you, unless the seller has materially changed the item's description after you bid, a clear typographical error is made, or you cannot authenticate the seller's identity;
- b) failing to deliver items purchased from you, unless the buyer fails to meet the posted terms or you cannot authenticate the buyer's identity;
- c) manipulating the price of any item or interfere with other users' listings;
- d) circumventing or manipulating our fee structure, the billing process, or fees owed to the US-BX;
- e) taking any action that may undermine the Feedback or ratings systems (such as displaying, importing or exporting Feedback information off of the sites or using it for purposes unrelated to the US-BX);
- f) transferring your US-BX account (including Feedback) and user ID to another party without our consent;

You agree not to post or otherwise make available Content:

- a) that is unlawful, harmful, threatening, abusive, harassing, defamatory, libelous, invasive of another's privacy or is harmful to minors in any way;
- b) that is pornographic or sexually inappropriate in any way
- c) that harasses, degrades, intimidates or is hateful toward an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
- d) that violates the Fair Housing Act by stating, in any notice or ad for the sale or rental of any dwelling, a discriminatory preference based on race, color, national origin, religion, sex, familial status or handicap (or violates any state or local law prohibiting discrimination on the basis of these or other characteristics);
- e) that violates federal, state, or local equal employment opportunity laws, including but not limited to, stating in any advertisement for employment a preference or requirement based on race, color, religion, sex, national origin, age, or disability.
- f) with respect to employers that employ four or more employees, that violates the anti-discrimination provision of the Immigration and Nationality Act, including requiring U.S. citizenship or lawful permanent residency (green card status) as a condition for employment, unless otherwise required in order to comply with law, regulation, executive order, or federal, state, or local government contract.
- g) that impersonates any person or entity, including, but not limited to, a US-BX employee, or falsely states or otherwise misrepresents your affiliation with a person or entity (this provision does not apply to Content that constitutes lawful non-deceptive parody of public figures.);
- h) that includes personal or identifying information about another person without that person's explicit consent;
- i) that is false, deceptive, misleading, deceitful, misinformative, or constitutes "bait and switch";
- j) that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party, or Content that you do not have a right to make available under any law or under contractual or fiduciary relationships;
- k) that constitutes or contains "affiliate marketing," "link referral code," "junk mail," "spam," "chain letters," "pyramid schemes," or unsolicited commercial advertisement;

l) that constitutes or contains any form of advertising or solicitation if: posted in areas of the US-BX sites which are not designated for such purposes; or emailed to US-BX users who have not indicated in writing that it is ok to contact them about other services, products or commercial interests.

m) that includes links to commercial services or web sites, except as allowed in "services";

n) that advertises any illegal service or the sale of any items the sale of which is prohibited or restricted by any applicable law, including without limitation items the sale of which is prohibited or regulated by Colorado law.

o) 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;

p) that disrupts the normal flow of dialogue with an excessive amount of Content (flooding attack) to the Service, or that otherwise negatively affects other users' ability to use the Service; or

q) that employs misleading e-mail addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin of Content transmitted through the Service.

Additionally, you agree not to:

r) contact anyone who has asked not to be contacted, or make unsolicited contact with anyone for any commercial purpose;

s) "stalk" or otherwise harass anyone;

t) collect personal data about other users for commercial or unlawful purposes;

u) use automated means, including spiders, robots, crawlers, data mining tools, or the like to download data from the Service, unless expressly permitted by the US-BX;

v) post irrelevant Content, repeatedly post the same or similar Content or otherwise impose an unreasonable or disproportionately large load on our infrastructure;

w) post the same item more than one time;

x) attempt to gain unauthorized access to the US-BX's computer systems or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of, the Service or the US-BX website; or

y) use any form of automated device or computer program that enables the submission of postings on the US-BX without each posting being manually entered by the author thereof (an "automated posting device"), including, without limitation, the use of any such automated posting device to submit postings in bulk, or for automatic submission of postings at regular intervals.

### **10) No Spam Policy**

You understand and agree that sending unsolicited email advertisements to the US-BX e-mail addresses or through the US-BX's computer systems, which is expressly prohibited by the TOS, will use or cause to be used servers located in the State of Colorado, U.S.A. Any unauthorized use of the US-BX's computer systems is a violation of the TOS and certain federal and state laws, including, without limitation, the Computer Fraud and Abuse Act (18 U.S.C. Section 1030, et seq.). Such violations may subject the sender and his or her agents to civil and criminal penalties.

### **11) Limitations on Service**

You acknowledge that the US-BX may establish limits concerning use of the Service, including the maximum number of days that Content will be retained by the Service, the maximum number and size of postings or other Content that may be transmitted or stored by the Service, and the frequency with which you may access the Service. You agree that the US-BX has no responsibility or liability for the deletion or failure to store any Content maintained or transmitted by the Service. You acknowledge that the US-BX reserves the right at any time to modify or discontinue the Service (or any part thereof) with or without notice, and that the US-BX shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

### **12) Access to the Service**

The US-BX grants you a limited, revocable, nonexclusive license to access the Service for the sole purpose of posting products for sale or purchasing such products. This license does not include: (a) access to the Service by Posting Agents; or (b) any collection, aggregation, copying, duplication, display or derivative use of the Service nor any use of data mining, robots, spiders, or similar data gathering and extraction tools for any purpose, unless expressly permitted by the US-BX. A limited exception to clause (b) is provided to general purpose internet search engines and non-commercial public archives that use such tools to gather information for the sole purpose of displaying hyperlinks to the Service, provided they each do so from a stable IP address or range of IP addresses using an easily identifiable agent and comply with our robots.txt file. The US-BX permits you to display on your website, or create a hyperlink on your website to, the US-BX, so long as such use is for non-commercial and/or news reporting purposes only (e.g., for use in personal web blogs or personal online media). Any such hyperlink shall not portray the US-BX, its employees or its affiliates in a false, misleading, derogatory or otherwise offensive manner.

In the future, the US-BX may offer various parts of the Service in RSS format so that users can embed individual feeds into a personal website or blog, or view postings through third-party software news aggregators. The US-BX permits you to display, excerpt from, and link to the RSS feeds on your personal website or personal web blog, provided that (a) your use of the RSS feed is for personal, non-commercial purposes only, (b) each title is correctly linked back to the original post on the Service and redirects the user to the US-BX when the user clicks on it, (c) you provide, adjacent to the RSS feed, proper attribution to "The USBX" as the source, (d) your use or display does not suggest that the US-BX promotes or endorses any third party causes, ideas, web sites, products or services, (e) you do not redistribute the RSS feed, and (f) your use does not overburden the US-BX's systems. The US-BX reserves all rights in the content of the RSS feeds and may terminate any RSS feed at any time. Use of the Service beyond the scope of authorized access granted to you by the US-BX immediately terminates said permission or license. In order to collect, aggregate, copy, duplicate, display or make derivative use of the Service or any Content made available via the Service for other purposes (including commercial purposes) not stated herein, you must first obtain a license from the US-BX.

### **13) Termination of Service**

You agree that the US-BX, in its sole discretion, has the right (but not the obligation) to delete or deactivate your account, block your e-mail or IP address, or otherwise terminate your access to, or use of, the Service (or any part thereof), immediately and without notice, and remove and discard any Content within the Service, for any reason, including, without limitation, if the USBX believes that you have acted inconsistently with the letter or spirit of the TOS. Further, you agree that the US-BX shall not be liable to you or any third-party for any termination of your access to the Service. Further, you agree not to attempt to use the Service after said termination.

### **14) Proprietary Rights**

The Service is protected to the maximum extent permitted by copyright laws and international treaties. Content displayed on or through the Service is protected by copyright as a collective work and/or compilation, pursuant to copyrights laws and international conventions. Any reproduction, modification, creation of derivative works from or redistribution of the site or the collective work, and/or copying or reproducing the sites or any portion thereof to any other server or location for further reproduction or redistribution is prohibited without the express written consent of the US-BX. You further agree not to reproduce, duplicate or copy Content from the Service without the express written consent of the US-BX, and agree to abide by any and all copyright notices displayed on the Service. You may not decompile or disassemble, reverse engineer or otherwise attempt to discover any source code contained in the Service. Without limiting the foregoing, you agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any aspect of the Service. U.S. BioFuels Exchange, LLC has filed, or will file, for trademark protection for the "US-BX" mark, including certain of its derivative marks.

Although the US-BX does not claim ownership of content that its users post, by posting Content to any public area of the Service, you automatically grant, and you represent and warrant that you have the right to grant, to the US-BX an irrevocable, perpetual, non-exclusive, fully paid, worldwide license to use, copy, perform, display, and distribute said Content and to prepare derivative works of, or incorporate into other works, said Content, and to grant and authorize sublicenses (through multiple tiers) of the foregoing. Furthermore, by posting Content to any public area of the Service, you automatically grant the US-BX all rights necessary to prohibit any subsequent aggregation, display, copying, duplication, reproduction, or exploitation of the Content on the Service by any party for any purpose.

### **15) Disclaimer of Warranties**

YOU AGREE THAT USE OF THE US-BX WEB SITE AND THE SERVICE IS ENTIRELY AT YOUR OWN RISK. THE US-BX WEB SITE AND THE SERVICE ARE PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND. ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. TO THE FULLEST EXTENT PERMITTED BY LAW, THE US-BX DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, ACCURACY, AND PERFORMANCE OF THE US-BX WEBSITE AND THE SERVICE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE US-BX DISCLAIMS ANY WARRANTIES FOR OTHER SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED ON THE US-BX WEBSITE OR THE SITES OR SERVICE, OR ACCESSED THROUGH ANY LINKS ON THE US-BX WEBSITE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE US-BX DISCLAIMS ANY WARRANTIES FOR VIRUSES OR OTHER HARMFUL COMPONENTS IN CONNECTION WITH THE US-BX WEBSITE OR THE SERVICE.

Some jurisdictions do not allow the disclaimer of implied warranties. In such jurisdictions, some of the foregoing disclaimers may not apply to you insofar as they relate to implied warranties.

#### **16) Limitations of Liability**

UNDER NO CIRCUMSTANCES SHALL US-BX.COM BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF THE US-BX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM ANY ASPECT OF YOUR USE OF THE US-BX WEBSITE OR THE SERVICE, WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF THE US-BX WEBSITE OR THE SERVICE, FROM INABILITY TO USE THE US-BX WEBSITE OR THE SERVICE, OR THE INTERRUPTION, SUSPENSION, MODIFICATION, ALTERATION, OR TERMINATION OF THE US-BX WEBSITE OR THE SERVICE. SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF OTHER SERVICES OR PRODUCTS RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE US-BX WEBSITE OR THE SERVICE OR ANY LINKS ON THE US-BX WEBSITE, AS WELL AS BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE US-BX WEBSITE OR THE SERVICE OR ANY LINKS ON THE US-BX WEBSITE. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

In some jurisdictions, limitations of liability are not permitted. In such jurisdictions, some of the foregoing limitation may not apply to you.

#### **17) Indemnity**

You agree to indemnify and hold the US-BX, its officers, subsidiaries, affiliates, successors, assigns, directors, officers, agents, service providers, suppliers and employees, harmless from any claim or demand, including reasonable attorney fees and court costs, made by any third party due to or arising out of Content you submit, post or make available through the Service, your use of the Service, your violation of the TOS, your breach of any of the representations and warranties herein, or your violation of any rights of another.

#### **18) General Information**

The TOS constitute the entire agreement between you and the US-BX and govern your use of the Service, super-ceding any prior agreements between you and the US-BX. The TOS and the relationship between you and the US-BX shall be governed by the laws of the State of Colorado without regard to its conflict of law provisions. The failure of the US-BX to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If there arises a dispute between the US-BX and you, you agree to submit the dispute to binding arbitration in Denver, Colorado, under applicable Colorado and Federal law. Such demand shall set forth the names of the other party or parties. The arbitration provided for herein shall be conducted under the auspices of the American Arbitration Association, utilizing the AAA's applicable rules for arbitration of commercial disputes, and shall be decided by one arbitrator. Except as otherwise provided herein, the Arbitrators shall have the authority to award any remedy or relief a state or Federal court of the State of Colorado could order or grant, including, without limitation, specific performance, the awarding of compensatory damages, the issuance of an injunction and other equitable relief, but specifically excluding punitive damages. If the remedy sought is a monetary award, each party shall simultaneously, on the twentieth business day following the commencement of the arbitration, submit to the Arbitrators the amount that party believes should be awarded, and with respect to compensatory damages, the Arbitrators shall make an award in whichever of the two amounts they deem most reasonable. The Arbitrators' decision shall be issued with findings of fact and conclusions of law and shall be non-appealable.