

CAPX Terms of Service

Introduction

Welcome to CAPX, where we are dedicated to transforming how companies find and get financing. **CAPX is not a financial institution**, but we have years of experience that has given us powerful insights to make the corporate finance process uniform, efficient and transparent. Please explore our site to find out more about what we do, and feel free to email us at info@capx.io to learn more.

The following Terms of Service apply to your use of the CAPX website (www.capx.io), and also include some general information about the services we offer. Our lawyers insist that we include the terms, so we insisted that they let us know what they actually mean. Fortunately, as the publicly available portions of the site only include general information, this is actually pretty simple.

CAPX is a technology company with a platform that helps connect companies with sources of financing. The site features information about us and our services, and is provided to help inform potential users of the services. Unless you register an account with us and enter into separate terms for the use of our platform, that is the only thing you can use it for – to learn more about us. We own all information on the site and, if you send us any suggestions about the site or service, we can use them however we choose (and what we will choose is to try to make the site and the service better).

If you want to use the service, you will have to register with us, provide certain information about you and your company, and agree to additional terms. While we do our best to keep the site up to date and accurate, we are not responsible for any errors on the site. If you send us any information about yourself (for example, when emailing to learn more about the service), we will only use that information as described in our privacy policy available at www.capx.io/privacy. You are responsible for your use of the site, and, in the unlikely event that you cause us harm in doing so, will “indemnify” us (pay for) any harm we suffer.

General Terms of Service

Last Updated: November 27, 2018

CAPX, LLC, d/b/a as CAPX (“**CAPX**”) licenses a proprietary, cloud-based platform that helps connect companies seeking capital (“**Capital Seekers**”) with financial institutions (“**Capital Providers**”) as further described below (the “**Service**”). These Terms of Service (the “**Terms**”), including any Supplemental Agreements (as defined below) applicable to you, are a legally binding agreement between you and CAPX. As used in these Terms, “**you**” and “**your**” refer to any user of CAPX’s website(s), services or applications at www.capx.io (collectively, the “**Site**”). “**We**”, “**us**”, and “**our**” refer to CAPX and our directors, officers, employees, contractors, owners, agents, licensors, or licensees. CAPX IS NOT A BANK OR FINANCIAL INSTITUTION AND DOES NOT PROVIDE INVESTMENT ADVICE OR CONSULTING SERVICES TO USERS OF THE SERVICE. WE ARE SOLELY THE PROVIDER OF THE SERVICE DESCRIBED ON THIS SITE.

1 ACCEPTANCE; AMENDMENT.

1.1 By accessing the Site, you agree to, and are bound by, the terms and conditions of these Terms. To use the Service you must register with us, and as part of the registration process you will be required to affirmatively accept these Terms and certain additional terms and conditions depending on whether you are a Capital Seeker or Capital Provider (such additional terms and conditions, “**Supplemental Agreements**”). If there is a conflict between these Terms and any Supplemental Agreement, the Supplemental Agreement will control. You may not use the Site or Service if (a) you are not of legal age to form a binding contract with CAPX; or (b) you are prohibited by law from visiting the Site. **SECTION 11 OF THESE TERMS REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE**

DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IF THERE IS A DISPUTE ABOUT THE SERVICE OR THESE TERMS.

1.2 CAPX may amend these Terms at any time upon reasonable notice, as determined by CAPX in its sole discretion. CAPX will post notice of any amendment on this page, including the date such amendment takes effect. You should regularly check this page for updates to Terms. By using the Site after such notice is provided, you accept and agree to the amended Terms. If you do not agree to an amendment, you must stop using the Site and Service. If you have any questions about these Terms, please contact us at support@capx.io.

2 PRIVACY. CAPX is committed to protecting your privacy. All information related to you that we collect and use in connection with the Site and Service, including information that may be used to identify you, is subject to our Privacy Policy (available at www.capx.io/privacy), which is incorporated by reference into these Terms. The Privacy Policy describes our collection and possible use of information provided by you. By using the Site or Service, you agree to, and are bound by, the Privacy Policy.

3 YOUR ACCOUNT. If you wish to access the Service, you must register as a master user for a Capital Seeker or Capital Provider or receive invitation to register by a master user affiliated with a Capital Seeker or a Capital Provider with a registered profile on CAPX. Requirements for registering an entity or individual with the Services are made available during the sign up process, and governed by the Supplemental Agreements. All users who register with the Service are responsible for keeping their access credentials safe and secure and ensuring that all information submitted in connection with their account is accurate and current at all times. Any entity registered with the Service is responsible for the acts of its employees and other registered users on the Service. No registration is required to simply access the Site without using the Service.

4 THE SERVICE. The Service allows Capital Seekers and Capital Providers to more efficiently identify, analyze, and engage with potential counterparties for financing transactions, as more fully described in the Supplemental Agreements.

5 FEES. We do not charge Capital Seekers a fee for the general access of the Service. Fee information is available in the Supplemental Agreements.

6 YOUR USE OF THE SITE AND SERVICE.

6.1 Grant and Restrictions. CAPX grants you a limited, non-exclusive, non-transferable, non-sublicensable, and revocable license to access and use the Site, subject to these Terms. You may not (a) copy, reproduce, record, or make any part of the Site available to the third parties except as explicitly permitted herein, (b) attempt to gain access to the Service if you are not authorized to do so, or otherwise circumvent any technology used by CAPX to protect the Service, (c) use any manual or automated means to “scrape” or download data from the Site (except that public search engines may do so to create publicly available searchable indices of the publicly available pages of the Site, but may not cache or archive any information from the Site); (d) remove or alter any copyright, trademark or other intellectual property notices contained on or provided through the Site, or (e) violate any terms of these Terms in your use of the Site. Additional terms with respect to the Service are included in the Supplemental Agreements.

6.2 Business Purpose. You will only use the Site or Service for bona fide internal business purpose. Except as expressly permitted in any Supplemental Agreement applicable to you, you may not use the Site or Service to obtain information about or make decisions about anyone but yourself and/or your business. For avoidance of doubt, you are only permitted to use the Site if you are, or intend to be, the principal party of a proposed financial transaction. You are not permitted to use the Site to broker financing transactions for a third party Capital Seeker and you are not permitted to use the Site to arrange financing transactions in which a third party Capital Provider is the principal capital provider.

6.3 Compliance with Law. You will comply with all applicable laws, statutes, ordinances and regulations in your use of the Site and Service and in conduct of your business related to your use of the Service. Use of the Site for illegal, fraudulent or abusive purposes may be referred to law enforcement authorities without notice.

6.4 Feedback. Any feedback, comments, or suggestions you may provide regarding us, the Site, or the Service (“**Feedback**”) is entirely voluntary and we will have a perpetual, irrevocable, unrestricted and royalty-free right to use such Feedback as we see fit and without any obligation to you.

6.5 Proprietary Rights. As between you and CAPX, all right, title and interest in the Site, Service and any other materials furnished or made available to you via the Site and Service, and all modifications and enhancements thereof, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, belong to and are retained solely by CAPX or CAPX’s licensors and providers, as applicable. CAPX respects the intellectual property rights of others, and we ask you to do the same. If you believe that your work is the subject of copyright infringement and/or trademark infringement and appears on the Site, please provide our designated agent with the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted and/or trademarked work claimed to have been infringed, or, if multiple works at a single online site are covered by a single notification, a representative list of such works at that site.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled at the Site, and information reasonably sufficient to permit us to locate the material.
- Information reasonably sufficient to permit us to contact you as the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted.
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright and/or trademark owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Our agent for notice of claims of copyright or trademark infringement can be reached as follows:

Attn: Rocky Gor
Email: rocky@capx.io

Please also note that for copyright infringements under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

7 **INDEMNIFICATION**. You agree to release, indemnify, and hold harmless CAPX and its affiliates, and their respective officers, directors, employees and agents, from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or in any way related to: (a) your access to, use of, or inability to use the Site or Service; (b) your breach of these Terms; (c) your violation of any rights of a third party in connection with your use of the Site or Service; (d) your interaction with any other user of the Site or Service; and (e) your violation of any applicable law.

8 **DISCLAIMER OF WARRANTIES.**

8.1 General. EXCEPT AS EXPLICITLY SET FORTH HEREIN, CAPX EXPLICITLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, ARISING OUT OF THESE TERMS, THE SITE, OR THE SERVICE. YOUR ACCESS TO AND USE OF THE SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. The entire risk as to satisfactory quality, performance, accuracy, and effort of the Site and Service is with you. CAPX does not represent or warrant that the Site or Service will be available, accessible, uninterrupted, timely, secure, accurate, complete, or error-free. This disclaimer of warranty extends to each user of the Site and/or Service and is in lieu of all warranties and conditions whether

express, implied, or statutory, including the implied warranties of merchantability, fitness for particular purpose, title, and non-infringement with respect to the Site and Service, and any implied warranties arising from course of dealing or course of performance.

8.2 No Financial Advice. YOU AGREE AND ACKNOWLEDGE THAT CAPX IS NOT A FINANCIAL OR INVESTMENT ADVISOR, BANK, LENDER, INVESTOR, BROKER DEALER OR FINANCIAL INSTITUTION OF ANY KIND AND SHOULD NOT BE RELIED UPON FOR FINANCIAL, LEGAL, TRANSACTION, TAX, ACCOUNTING OR CAPITAL STRUCTURE RELATED ADVICE. All information provided by CAPX should be individually verified and considered by you without any assumption of expertise on the part of CAPX. You are encouraged to seek necessary advice from relevant third party professionals. CAPX MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE QUALITY OR SUITABILITY OF ANY THIRD PARTY PRODUCTS OR SERVICES THAT MAY BE MADE AVAILABLE TO YOU ON THE SITE OR THROUGH SERVICE, OR AS THE CONDUCT OF OTHER USERS OF THE SITE OR SERVICE. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE SITE OR SERVICE AND WITH OTHER PERSONS OR ENTITIES WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SITE AND/OR SERVICE, PARTICULARLY IF YOU DECIDE MEET OR CONDUCT BUSINESS WITH SUCH PERSONS OR ENTITIES.

9 LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES WILL CAPX OR ITS AFFILIATES BE LIABLE TO YOU FOR (A) EXCEPT AS REQUIRED UNDER APPLICABLE LAW, ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THESE TERMS, THE USE OR INABILITY TO USE SITE, OR THE USE OR INABILITY TO USE THE SERVICE (EVEN IF CAPX KNOWS OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), INCLUDING DAMAGES FOR LOSS OR CORRUPTION OF DATA OR DOCUMENTATION, SERVICE INTERRUPTIONS, OR CAPX'S OR YOUR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, OR (B) ANY DIRECT DAMAGES IN EXCESS OF \$100.

10 TERM AND TERMINATION. These Terms will commence on the date you first access the Site and remain in effect until either Party terminates these Terms as set forth herein (the "**Term**"). CAPX may terminate these Terms at any time in its sole discretion by providing notice of such termination either generally or to you. You may terminate these Terms at any time by ending your use of the Site and the Service and notifying CAPX at support@capx.io.

11 CHOICE OF LAW; ARBITRATION

11.1 Choice of Law. These Terms, for all purposes, will be governed and interpreted according to the laws of the State of New York, without giving effect to its conflicts of laws provisions that would require a different result.

11.2 Arbitration of Disputes. Any dispute that may not be brought in small claims court will be resolved by binding and confidential arbitration conducted before one commercial arbitrator from the American Arbitration Association ("**AAA**") with substantial experience in resolving commercial contract disputes and governed by the AAA's Commercial Arbitration Rules.

(a) YOU ARE GIVING UP YOUR RIGHT TO GO TO COURT FOR ANY DISPUTE ARISING UNDER THESE TERMS EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT. YOUR RIGHTS WILL BE DETERMINED BY A NEUTRAL ARBITRATOR AND NOT A JUDGE OR JURY. YOU ARE ENTITLED TO A FAIR HEARING, BUT THE ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. ARBITRATOR DECISIONS ARE AS ENFORCEABLE AS ANY COURT ORDER AND ARE SUBJECT TO VERY LIMITED REVIEW BY A COURT.

(b) ANY CLAIMS BROUGHT BY EITHER PARTY MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, AND THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF.

(c) The arbitration award will be final and binding upon the parties without appeal or review except as permitted by State of New York law or United States federal law.

(d) Notwithstanding the foregoing, (i) either Party may bring an individual action in small claims court, and (ii) claims of (1) defamation, (2) violation of the Computer Fraud and Abuse Act, or (3) infringement or misappropriation of the other party's intellectual property rights, may be exclusively brought in the state or federal courts located in New York County, New York. The Parties agree to submit to the exclusive personal jurisdiction of such courts for such purpose. A request for equitable relief will not be deemed a waiver of the right to arbitrate.

11.3 With the exception of Section 11.2(a), if any part of Section 11.2 is deemed to be invalid or unenforceable for any reason then the balance of Section 11.2 will remain in effect. If, however, Section 11.2(a) is found to be invalid or unenforceable for any reason, then Section 11.2 will be null and void, neither party will be entitled to arbitration, and any claims relating to these Terms will be exclusively brought in a state or federal court located in New York County, New York.

12 GENERAL TERMS.

12.1 Electronic Communications. By using the Site and/or the Service you consent to receiving electronic communications from CAPX. These electronic communications may include notices about applicable fees and charges, transactional information and other information concerning or related to the Site and/or Service. These electronic communications are part of your relationship with CAPX. You agree that any notices, agreements, disclosures or other communications that CAPX sends you electronically will satisfy any legal communication requirements, including that such communications be in writing.

12.2 Waiver. The waiver by CAPX of a breach of any provision contained herein will be in writing and will in no way be construed as a waiver of any subsequent breach of such provision or the waiver of the provision itself.

12.3 Interpretation. References to "Sections" are references to the sections of these Terms. The singular includes the plural, and the plural includes the singular. All references to "hereof" and other similar compounds of the word "here" mean and refer to these Terms as a whole rather than any particular part of the same. The terms "include" and "including" are used for example and not limitation. The headings, captions, headers, footers and version numbers contained in these Terms are intended for convenience or reference and will not affect the meaning or interpretation of these Terms.

12.4 Third Party Beneficiaries. Nothing in these Terms, expressed or implied, is intended to confer upon any person, other than the Parties and their successors and permitted assigns, any of the rights hereunder.

12.5 Survival. All provisions of these Terms that by their nature extend beyond the expiration or termination of these Terms will survive the termination of these Terms.

12.6 Severability. Subject to Section 11.3, if any provision of these Terms is determined to be invalid or unenforceable, the remaining provisions of these Terms will not be affected thereby and will be binding upon the Parties and will be enforceable, as though said invalid or unenforceable provision were not contained in these Terms.

12.7 Assignment. Neither these Terms nor any rights hereunder may be transferred by you without the prior written consent of CAPX.