



Red Capital

PLEASE READ THE TERMS AND CONDITIONS OF THIS ENTIRE AGREEMENT (THE “AGREEMENT”) CAREFULLY. THE AGREEMENT GOVERNS YOUR USE OF REDCAPITAL (“REDCAPITAL.PARTNERS”). RED CAPITAL LLC, RED CAPITAL AND THEIR PARENTS AND AFFILIATES (COLLECTIVELY, “RED CAPITAL”) PROVIDE RED CAPITAL TO YOU SUBJECT TO YOUR COMPLIANCE WITH THIS AGREEMENT. BY USING OR ACCESSING REDCAPITAL.PARTNERS, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT.

## **1. Disclaimers.**

(a). Red Capital provides Red Capital.com to provide information relating to Red Capital, as well as deposit products Red Capital may make available. As a condition to your use of Red Capital.com, you agree that you will not: (i) use Red Capital.com to infringe the intellectual property rights of Red Capital or others in any way; (ii) use Red Capital.com or make any attempt to penetrate, modify or manipulate Red Capital.com or any of Red Capital’s hardware or software in order to invade the privacy of, obtain the identity of or obtain any personal information about (including, but not limited to, IP addresses of) any Red Capital account holder or user, or modify, erase or damage any information contained on the computer of any user connected to Red Capital.com; or (iii) reverse engineer any portion of Red Capital.com.

(b). Red Capital is not engaged in rendering financial or any other advice through Red Capital.com and you are not a client of Red Capital merely by visiting Red Capital.com. For complete descriptions of the offer terms of any deposit product, please refer to the applicable Product Information Sheet, available on Red Capital.com.

(c). The information contained on Red Capital.com. is believed to be accurate. Deposit products made available on Red Capital.com are offered by their applicable banks and the terms of each deposit product is the responsibility of the applicable offering bank.

(d). Red Capital.com. may reference links to, or material from, other internet sites that are not created, published, maintained or otherwise controlled by Red Capital. These links and linked material are provided solely for the convenience of the users of Red Capital.com and do not constitute an endorsement of any products, services or information available on, from or through such non-Red Capital internet sites. Red Capital takes no responsibility and assumes no liability or obligation for any content posted by any third party or on any third-party website, nor does Red Capital approve, endorse or certify information available at any external websites or linked addresses.

## **2. Copyrights and Trademarks.**

(a) . All content included on Red Capital.com , such as text, graphics, logos, button icons, images, data compilations and software, as well as the compilation of all content on Red Capital.com and all software used on Red Capital.com, are the property of Red Capital, its affiliates or its content suppliers and are protected by United States and international copyright laws. Trademarks owned by Red Capital or its affiliates, including but not limited to, the Red Capital logo and all other trademarks, service marks, logos and trade names of Red Capital or its affiliates appearing on this

site (collectively, "Marks") are owned by Red Capital, its affiliates or its licensors. Nothing in this Agreement or on Red Capital.com grants you any right or license to make any use of any materials or Marks identified on Red Capital.com, except as described in the remainder of this Section 2.

(b). You are authorized only to visit, view and retain a single copy of pages of Red Capital.com solely for your own individual, noncommercial use and you agree that you will not duplicate, download, publish, modify or otherwise distribute any material from Red Capital.com for any purpose other than your own individual, noncommercial use, unless you obtain Red Capital's prior written consent. None of the legal notices and various credits posted on the pages of Red Capital.com or in the Services may be removed under any circumstances.

(c). You are granted a limited, revocable and nonexclusive right to create a hyperlink to the home page of Red Capital.com, provided: (i) the link does not portray Red Capital, its affiliates, or their products or services in a false, misleading, derogatory or otherwise offensive matter; and (ii) the link does not use any of the Marks without Red Capital's prior written consent.

(d). Notwithstanding any of the foregoing provisions of this Section 2, you (i) may not frame or utilize framing techniques to enclose any Marks or (ii) use any meta tags or any other hidden text utilizing the Marks, unless you have Red Capital's prior written consent.

### **3. Prohibited Activities on Red Capital.com.**

As a condition of your use of Red Capital.com, you agree that you will not restrict or inhibit any other user from using and enjoying Red Capital.com or any other property or system of Red Capital or any of its affiliates or service providers, or use Red Capital.com to: (a) engage in or encourage conduct that would constitute a criminal offense or give rise to civil or criminal liability; (b) distribute in any manner any harmful, obscene, defamatory or otherwise illegal or objectionable material of any kind; (c) spoof or otherwise impersonate any individual or entity, or forge, delete or alter any part of the TCP/IP packet header information in any e-mail or other posting; (d) harvest, collect or store user information on Red Capital.com; (e) violate or attempt to violate, the security of Red Capital.com; (f) infringe upon or misappropriate any person's copyright, patent, or other intellectual property, trade secret, or other proprietary rights (in which event you may be ordered by a court to pay money damages to the rightful owner of any such rights you violate); or (g) assist or permit any persons in engaging in any of the activities described above.

### **4. Consequences of Unacceptable Use.**

With regard to any alleged or actual illegal activities by you involving Red Capital.com, Red Capital reserves all rights including, without limitation, the following: (a) the right to investigate and to involve and cooperate with law enforcement authorities; (b) the right to pursue a civil lawsuit or criminal prosecution for any alleged or actual illegal activities; and (c) the right to terminate your access to Red Capital.com.

## **5. Information you Submit.**

(a). Red Capital uses the information you submit to Red Capital through any Red Capital.com pages (and other pages Red Capital may add from time to time) and by e-mail to respond to your inquiries for information or requests for Red Capital services. Red Capital's use of any information you submit to Red Capital through Red Capital.com is also subject to Red Capital US's Privacy Policy, the provisions of which are incorporated by reference into this Agreement and shall apply to your use of Red Capital.com. Notwithstanding the foregoing, Red Capital reserves the right at all times to disclose any information as Red Capital determines, in its sole discretion, to be necessary to satisfy any law, regulation or governmental request or to avoid liability for Red Capital or any third party.

(b). When you complete forms online or otherwise provide Red Capital information in connection with Red Capital.com, you agree to provide current, complete, true and accurate information. You agree not to use a false or misleading name or a name that you are not authorized to use. If Red Capital, in its sole discretion, believes that any such information is untrue, inaccurate, not current or incomplete, Red Capital may refuse your access to Red Capital.com and may pursue any and all appropriate legal and equitable remedies.

(c). Red Capital.com may use "cookies" (i.e., small files that are stored by your Web browser to help a particular system recognize you and the pages you visit in Red Capital.com) to store certain personal preferences for your future visits to Red Capital.com. Cookies tell Red Capital, among other things, whether you have visited Red Capital.com before. In some cases, Red Capital may store the information needed to grant you access in a cookie. Red Capital's use of any cookie information is subject to Red Capital's Cookie Policy, the provisions of which are incorporated by reference into this Agreement and shall apply to your use of Red Capital.com.

## **6. Warranty Disclaimer.**

YOUR ACCESS AND USE RED CAPITAL.COM IS AT YOUR SOLE RISK. RED CAPITAL.COM IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR NON-MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, ACCURACY OF INFORMATIONAL CONTENT OR SYSTEM INTEGRATION. RED CAPITAL DOES NOT WARRANT THAT RED CAPITAL.COM WILL BE AVAILABLE OR OPERATE IN AN UNINTERRUPTED OR ERROR-FREE MANNER OR THAT ERRORS OR DEFECTS WILL BE CORRECTED. RED CAPITAL DOES NOT WARRANT THAT INFORMATION AVAILABLE ON OR THROUGH RED CAPITAL.COM IS APPROPRIATE, ACCURATE OR AVAILABLE FOR USE IN ANY PARTICULAR JURISDICTION AND ACCESSING IT FROM JURISDICTIONS WHERE ITS CONTENT IS ILLEGAL IS EXPRESSLY PROHIBITED.

*Please note that some jurisdictions do not allow exclusion of certain implied warranties, so the above exclusions may not apply to you.*

## **7. Limitation of Liability.**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT RED CAPITAL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL EXEMPLARY OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE USE OF RED CAPITAL.COM AND ANY OR ALL OF THE RED CAPITAL SERVICES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF RED CAPITAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES).

TO THE EXTENT THE FOREGOING LIMITATION OF LIABILITY IS, IN WHOLE OR IN PART, HELD TO BE INAPPLICABLE OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF RED CAPITAL FOR ANY REASON AND UPON ANY CAUSE OF ACTION (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY AND OTHER ACTIONS IN CONTRACT OR TORT) ARISING OUT OF OR IN ANY WAY RELATED TO THIS SITE, THE SERVICES OR THIS AGREEMENT SHALL BE LIMITED TO YOUR DIRECT DAMAGES ACTUALLY INCURRED UP TO A MAXIMUM OF TWO HUNDRED FIFTY DOLLARS (\$250.00). THE LIMITATION OF LIABILITY HEREIN APPLIES TO ALL LIABILITIES IN THE AGGREGATE INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM YOUR USE OR YOUR INABILITY TO USE RED CAPITAL.COM OR ANY OTHER MATTER ARISING FROM OR RELATING TO RED CAPITAL.COM. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

## **8. Indemnity.**

You agree to indemnify and hold Red Capital harmless and, at Red Capital's request, to defend Red Capital from and against any claim, demand, cause of action, debt, loss or liability including, without limitation, reasonable attorneys' fees, to the extent that any of the foregoing is based upon, arises out of, or relates to: (a) your use of (or inability to use) Red Capital.com; (b) your violation of the terms and conditions of this Agreement; (c) the infringement by you, or any other person using your password and account, of any right of any person or entity; or (d) any other activities of yours accomplished using Red Capital.com. This indemnity shall be in addition to and not limited by any other indemnity.

## **9. Order of Precedence.**

This Agreement governs your use of Red Capital.com. To the extent that any provision of this Agreement conflicts with any provision of other agreements offered as part of any enrollment for additional services on Red Capital.com and which you sign pursuant to Electronic Communications Agreement (E-SIGN consent), the terms of those other agreements shall, as to the specific subject matter thereof, take precedence over any conflicting terms herein.

## **10. Applicable Laws.**

Red Capital.com is controlled by Red Capital from its offices within the state of New York and is intended for viewing only in the United States. Subject to the provisions of Sections 6, 7 and 9 above, the internal substantive laws of the State of New York will govern this Agreement and any dispute arising hereunder without regard to any conflict of laws principles.

## **11. Dispute Resolution; Arbitration.**

If a dispute arises out of or relates to this Agreement or its breach (with the exception of rights to injunctive relief with respect to intellectual property rights and obligations with respect to confidentiality) and the parties have not been successful in resolving the dispute through direct negotiation, then (a) the dispute shall be resolved by arbitration administered by the American Arbitration Association (or any successor entity) under its Commercial Arbitration Rules, as amended from time to time, solely to the extent such Rules are not in conflict with the provisions of this Agreement, (b) any judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction, (c) the location of the arbitration shall be New York, New York, USA and (d) the parties shall have the right to take discovery of the other party by any method allowed by the Federal Rules of Civil Procedure, although in an effort to expedite the arbitration proceeding, as well as to minimize the parties' attorneys' fees and other costs, the arbitrator(s) presiding over any such arbitration shall, to the extent equitable, restrict the type and amount of discovery in which the parties may engage. The arbitrator(s) shall each be a natural person who has never been employed (either as an employee or as an independent consultant) by either of the parties, or any parent, subsidiary or affiliate thereof. The arbitrator(s) may upon request exclude from the arbitration proceeding any evidence not made available to the other party pursuant to a proper discovery request. The cost of the arbitration shall be borne equally by the parties pending the award. Upon the decision of the arbitrator(s), the prevailing party shall be entitled to receive from the other party its reasonable attorneys' fees and costs. The parties, their representatives, other participants, the arbitrator(s) and the administrator(s) of the arbitration shall hold in confidence the existence, content and outcome of the arbitration.

## **12. Miscellaneous.**

(a). Red Capital may amend this Agreement or any other notices, policies, terms and conditions on Red Capital.com at any time by posting the changes to Red Capital.com or other reasonable means. Accordingly, you should visit Red Capital.com from time to time to review the then-current and effective terms and conditions of this Agreement because they are binding upon you.

(b). No delay or failure by Red Capital to take action or exercise any rights under this Agreement or applicable law shall constitute a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder.

(c). Subject to the provisions of Sections 9 and 12(a) of this Agreement, this Agreement constitutes the entire agreement between you and Red Capital with respect to the specific subject matter addressed herein and governs your use of Red Capital.com, superseding any prior agreements between you and Red Capital relating to such subject matter.

Notwithstanding the foregoing, this Agreement may be supplemented by any other agreement you enter into with Red Capital pursuant to enrollment to access certain features of Red Capital.com.

(d). If any provisions of this Agreement are found by a court or arbitration panel of competent jurisdiction to be invalid or unenforceable, they shall be to that extent severed from this Agreement such that the remainder thereof shall remain in full force and effect and shall continue to bind the parties.

(e). The section headings used in this Agreement are for convenience only and have no legal or contractual effect. As appropriate to the text and the context of this Agreement, references to the plural shall include the singular, references to the masculine shall include the feminine and neuter gender and statements in the disjunctive shall include the conjunctive and vice versa.

(F). RED CAPITAL.COM IS NOT INTENDED FOR USE BY MINORS, INCLUDING CHILDREN UNDER THE AGE OF 13 AND RED CAPITAL DOES NOT KNOWINGLY COLLECT PERSONAL INFORMATION FROM CHILDREN UNDER THE AGE OF 13. **IF YOU ARE NOT LEGALLY AN ADULT UNDER THE GOVERNING LAWS WHERE YOU LIVE, YOU MAY NOT ACCESS RED CAPITAL.COM OR USE THE RED CAPITAL SERVICES AND SHOULD IMMEDIATELY DISCONTINUE YOUR ACCESS AND USE THEREOF.**