

CAPITAL PREFERENCES
COURSE ENROLLMENT TERMS OF SERVICE

Last updated on June 5, 2018.

Important: By enrolling in any of the courses we offer (“Courses”), you indicate that you have read, understood, and agree to be bound by these Terms of Service (“Terms”). These Terms form a legal contract between Capital Preferences Ltd., operating as TrueProfile (“TrueProfile”, “we” or “us”) and you (“you”). TrueProfile may modify these Terms from time to time as described in Section 11 (Modifications to Terms) below.

1. Enrollment. To enroll in our Courses, you will need to provide us with your name, address, email address, phone number, employment information and, if requested, other related information (“Personal Information”). You will also be required to provide us with your credit card number, the name associated with the credit card, the expiration date of the credit card and, if requested, other related information (“Payment Information”) to pay the fees associated with the Courses.

1.1. Fees & Payment. Fees for Courses are as set forth on <https://landing.trueprofile.com/berkeley-lp> (the “Information Page”). Payment in full is required prior to official registration in any Courses, and available Materials and logistics information will be sent upon full receipt of payment. You are responsible for paying all fees for Courses you purchase as set forth in the applicable Order, and payment can be made via credit card (Visa, MasterCard or American Express). You are required to pay any sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on our income. If your payment method fails or your account is past due, we may collect fees using other collection mechanisms. We reserve the right to change any fees at any time at our sole discretion, and any fee change will be effective immediately upon posting through the Information Page.

2. Course Materials

2.1. Use of Course Materials. Our Courses may come with course descriptions, toolkits, and other written materials (“Materials”). Subject to these Terms, TrueProfile hereby grants you a non-transferable, non-sublicensable, non-exclusive license to copy and use the Materials solely for your personal, non-commercial, educational use in connection with the applicable Courses.

2.2. Restrictions. Your rights are non-exclusive, non-transferable and non-sublicenseable. You will not (or permit anyone else to): use the Materials on behalf of any third party or rent, lease, provide access to or sublicense them to any third party or remove any copyright or proprietary notices contained in the Materials.

3. Use of Data.

3.1. Privacy Policy. TrueProfile may use and disclose your information in accordance with our [Privacy Policy](#).

3.2. Sharing with Third Parties. Without limiting our rights under the Privacy Policy, we may also share (i) your Personal information with our course co-sponsor, UC Berkeley Center for Executive Education (“CEE”), to permit them to administer the course, issue certificates, and market relevant offers from CEE, and any other named sponsors to permit them to market relevant offers, and (ii) your Payment Information with our payment processor to facilitate your payment of the fees associated with the Courses. Our payment processor maintains compliance with the current Payment Card Industry Data Security Standard as published by the PCI Security Standards Council.

4. Ownership. TrueProfile and its licensors retain all right, title and interest (including all intellectual property rights) in and to the Courses and Materials. If you submit any comments, suggestions or other feedback regarding the Courses or Materials, TrueProfile may freely exploit the feedback without restriction on account of intellectual property rights or otherwise.

5. User Content. Our Courses may enable you to share your content, such as your questions and comments, with us (“User Content”). You retain all intellectual property rights in, and are responsible for, the User Content you share. To the extent that you provide User Content, you grant us a royalty-free, perpetual, sublicensable, transferable, non-exclusive, worldwide license to copy, distribute, modify, create derivative works of, publicly perform, publicly display, and otherwise use the User Content. You should not provide to us any information in your User Content that you consider confidential and you agree that we are not subject to any confidentiality obligations or use restrictions related to User Content that you may provide to us in relation to the Courses.

6. Cancellation and Transfers.

6.1. TrueProfile Cancellations. Occasionally, due to various circumstances, TrueProfile may change Course schedules or locations or cancel a Course. If we cancel the Course in which you have enrolled and are not able to reschedule you into another Course that is acceptable to you, we will refund the fees you have paid, and we will have no further liability to you with regard to the cancelled Course.

6.2. Your Cancellations. Cancellations for full refund can be made within 5 business days of the date of your payment by sending your request to nick.wangford@capitalpreferences.com.

6.3. Transfers. Course and/or date transfers are available until 5 business days prior to the Course start date. To transfer to a different Course or date of the same Course, please send your request to nick.wangford@capitalpreferences.com.

7. Termination.

7.1. Term and Terminations. These Terms are effective as of the day you enroll in a Course and continue in effect while you are enrolled in the Course. We may terminate these Terms and your access to the Courses at any time upon notice to you if you breach these Terms.

7.2. Effect of Termination. Upon any expiration or termination of these Terms, you will no longer be permitted to attend the Courses. Provided these Terms were not terminated for your breach, you may retain copies of any Materials, so long as you do not copy, distribute or otherwise use them in violation of these Terms. Except where an exclusive remedy is specified, the exercise of either party of any remedy

under these Terms, including termination, will be without prejudice to any other remedies it may have under these Terms, by law or otherwise.

7.3. Survival. Sections 1.1 (Fees & Payment) (for any fees then due), 2.2 (Restrictions), 3 (Use of Data), 4 (Ownership), 5 (User Content), 8 (Warranty Disclaimer), 9 (Limitation of Liabilities), 10 (Indemnification) and 12 (General Terms) will survive any expiration or termination of these Terms.

8. Warranty Disclaimer. ALL COURSES AND MATERIALS ARE PROVIDED “AS IS”. TRUEPROFILE, CEE AND ANY OTHER SPONSORS DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. TRUEPROFILE, CEE AND ANY OTHER SPONSORS DO NOT WARRANT THAT YOUR PARTICIPATION IN THE COURSES WILL BE UNINTERRUPTED OR ERROR-FREE. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

YOU UNDERSTAND THAT OUR COURSES ARE BASED ON TRUEPROFILE’S THEORIES OF FINANCIAL RISK TOLERANCE. AS SUCH, YOU AGREE THAT TRUEPROFILE MAKES NO REPRESENTATIONS AS TO THE SUITABILITY OF THE COURSE CONTENT FOR ANY USE, INCLUDING TO ADVISE THIRD PARTIES ON THEIR FINANCIAL INVESTMENTS. YOU ASSUME ALL RISK IN YOUR USE OF OR RELIANCE ON THE COURSES AND MATERIALS. NOTWITHSTANDING ANYTHING TO THE CONTRARY, TRUEPROFILE IS NOT RESPONSIBLE FOR THE ACTS, OMISSIONS, OFFERINGS OR ADVICE OF ANY THIRD PARTY WITH WHOM YOU CHOOSE TO SHARE COURSE CONTENT OR MATERIALS.

YOU FURTHER ACKNOWLEDGE THAT THE COURSES AND MATERIALS DO NOT CONSTITUTE FINANCIAL PRODUCT ADVICE OF ANY KIND.

9. Limitation of Liabilities. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL TRUEPROFILE, CEE AND ANY SPONSORS BE LIABLE TO YOU OR TO ANY THIRD PARTY (I) FOR ANY LOST PROFITS, LOSS OF USE, LOST DATA, INTERRUPTION OF BUSINESS, FAILURE OF SECURITY MECHANISMS OR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES OR (II) IN ANY EVENT, FOR AMOUNTS EXCEEDING THE AMOUNT ACTUALLY PAID BY YOU TO US FOR THE COURSES DURING THE PRIOR TWELVE (12) MONTHS. THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY IN THESE TERMS IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. You acknowledge that the foregoing limitations are an essential element of these Terms and a reasonable allocation of risk between the parties, and that in the absence of such limitations the other provisions in these Terms would be substantially different.

10. Indemnification. You shall indemnify, defend and hold harmless TrueProfile from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys’ fees and costs) arising out of or in connection with your participation in the Courses or use of the Materials or any breach or alleged breach of these Terms.

11. Modifications to Terms. TrueProfile may modify these Terms from time to time, with notice given to you by email or through our website. Any modifications will apply to any subsequent Courses and Materials. You may be required to click to agree to the modified Terms in order to enroll in subsequent Courses. In any event, enrollment in a course after the modifications take effect constitutes your acceptance of the modifications.

12. General Terms.

12.1. Assignment. You may not assign or transfer these Terms or any rights hereunder, and any attempted assignment or transfer in violation of the foregoing will be void. TrueProfile may freely assign or transfer its rights or obligations hereunder at its sole discretion. These Terms will bind and inure to the benefit of each party’s permitted successors and assigns.

12.2. Governing Law; Dispute Resolution.

a) **Direct Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, whether arising in contract, tort or otherwise, (“Dispute”), the parties shall first use their best efforts to resolve the Dispute. If a Dispute arises, the complaining party shall provide written notice to the other party in a document specifically entitled “Initial Notice of Dispute,” specifically setting forth the precise nature of the dispute (“Initial Notice of Dispute”). If an Initial Notice of Dispute is being sent to TrueProfile it must be emailed to legal@trueprofile.com and sent via mail to:

Capital Preferences Ltd.
148 New Dorp Lane
New York, NY 10306

Following receipt of the Initial Notice of Dispute, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interest, attempt to reach a just and equitable solution of the Dispute that is satisfactory to both parties (“Direct Dispute Resolution”). If the parties are unable to reach a resolution of the Dispute through Direct Dispute Resolution within thirty (30) days of the receipt of the Initial Notice of Dispute, then the Dispute shall subsequently be resolved by arbitration as set forth below.

b) **Arbitration.** IN THE EVENT THAT A DISPUTE BETWEEN THE PARTIES CANNOT BE SETTLED THROUGH DIRECT DISPUTE RESOLUTION, AS DESCRIBED ABOVE, THE PARTIES AGREE TO SUBMIT THE DISPUTE TO BINDING ARBITRATION. BY AGREEING TO ARBITRATE, THE PARTIES AGREE TO WAIVE THEIR RIGHT TO A JURY TRIAL. The arbitration shall be conducted before a single neutral arbitrator, before JAMS in San Francisco, California. The arbitration shall be administered by JAMS in accordance with this document and the JAMS Streamlined Rules and Procedures for the Arbitration, with one addition: The limitation of one discovery deposition per side shall be applied by the arbitrator, unless it is determined, based on all relevant circumstances, that more depositions are warranted. The arbitrator shall consider the amount in controversy, the complexity of the factual issues, the number

of parties and the diversity of their interests and whether any or all of the claims appear, on the basis of the pleadings, to have sufficient merit to justify the time and expense associated with the requested discovery.

The arbitration will occur in San Francisco, California, but the parties may choose to appear by person, by phone, by another virtual means, or through the submission of documents.

The arbitrator will issue a ruling in writing. Any issue concerning the extent to which any dispute is subject to arbitration, the applicability, interpretation, or enforceability of this agreement shall be resolved by the arbitrator. To the extent state law is applicable, the arbitrator shall apply the substantive law of California.

All aspects of the arbitration shall be treated as confidential and neither the parties nor the arbitrators may disclose the content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. The result of the arbitration shall be binding on the parties and judgment on the arbitrator's award may be entered in any court having jurisdiction. The arbitrator shall award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

c) Choice of Law and Jurisdiction. FOR ANY CLAIM WHICH IS NOT SUBJECT TO THIS DISPUTE RESOLUTION PROVISION, YOU AGREE TO SUBMIT AND CONSENT TO THE PERSONAL AND EXCLUSIVE JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE STATE AND FEDERAL COURTS LOCATED WITHIN SAN FRANCISCO COUNTY, CALIFORNIA. IN ANY SUCH DISPUTE, CALIFORNIA LAW SHALL APPLY.

d) Construction and Joinder. THIS AGREEMENT MUST BE CONSTRUED AS IF IT WAS JOINTLY WRITTEN BY BOTH PARTIES. BOTH YOU AND TRUEPROFILE AGREE THAT EACH MAY BRING OR PARTICIPATE IN CLAIMS AGAINST THE OTHER ONLY IN THEIR RESPECTIVE INDIVIDUAL CAPACITIES, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS. NO ARBITRATION OR CLAIM UNDER THIS AGREEMENT SHALL BE JOINED TO ANY OTHER ARBITRATION OR CLAIM, INCLUDING ANY ARBITRATION OR CLAIM INVOLVING ANY OTHER CURRENT OR FORMER USER OF THE SERVICE, AND NO CLASS ARBITRATION PROCEEDINGS SHALL BE PERMITTED. IN THE EVENT OF ANY DISPUTE CONCERNING THE VALIDITY OR ENFORCEABILITY OF THIS PROVISION, SUCH CLAIM MUST BE ADJUDICATED BY A COURT AND NOT BY AN ARBITRATOR.

e) Injunctive Relief. Notwithstanding the above provisions, (i) TrueProfile may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction and (ii) TrueProfile may, in its sole discretion, bring any claim related to its intellectual property rights in the state and federal courts located within San Francisco County, California (and you agree to submit and consent to the personal and exclusive jurisdiction thereof), in which case California law will apply.

12.3. TrueProfile Contact Information. If you have any questions, complaints or claims regarding the Service, please contact:

Capital Preferences
148 New Dorp Lane
New York, NY 10306

If you are a California resident, in accordance with Cal. Civ. Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210 or (916) 445-1254.

12.4. Notice. We may send notices to your email on file. All notices are effective upon delivery.

12.5. Entire Agreement. These Terms constitute the entire agreement between you and TrueProfile related to the Courses and supersede and cancel all previous written and oral agreements and communications relating to the subject matter of these Terms. If any provision of these Terms is held unenforceable, that provision will be enforced to the extent permissible by law and the remaining provisions will remain in full force. No provision of these Terms will be deemed waived unless the waiver is in writing and signed by TrueProfile. Except as set forth in Section 10 (Modifications to Terms), all amendments to these Terms must be in writing and signed by both parties. In these Terms headings are for convenience only and "including" and similar terms will be construed without limitation.

12.6. Force Majeure. TrueProfile will not be liable to you in any way whatsoever for any failure or delay in performance of any of its obligations under these Terms arising out of any event or circumstance beyond the reasonable control of TrueProfile.