



Capitola Terms of Use

Last Modified: 4/1/2022

I. Acceptance of the Terms of Use

These terms of use are entered into by and between you and Capitola Insurance Services LLC ("Capitola," "our," "we," or "us"). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, "**Terms of Use**"), govern your access to and use of the Capitola Platform (the "Platform"), and the www.capitola-ins.com, including any content, functionality and services offered on or through www.capitola-ins.com (the "**Website**"). These Terms of Use constitute a legally binding agreement made by and between us and you as the user of the Platform and Website.

Please read the Terms of Use carefully before you start to use the Platform or Website. **By using the Platform or Website, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <https://www.capitola-ins.com/docs/privacy-policy>, incorporated herein by reference.** If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Platform or Website.

You understand and agree that to use the Platform or Website, you must be 18 years of age or older. If you use the Platform or Website on behalf of a third party, you agree that you are an authorized representative of that third party and that your use of the Platform or Website constitutes that third party's acceptance of these Terms of Use.

II. Changes to the Terms of Use

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Platform and Website thereafter.

Your continued use of the Platform or Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

III. Accessing the Platform and Website

For such time as these Terms of Use are in effect, we hereby grant you permission to visit and use the Platform and Website, provided that you comply with these Terms of Use, our Privacy Policy and applicable law.

We reserve the right to withdraw or amend this Platform or Website, and any service or material we provide therein, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Platform or Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Platform or Website, or the entire Platform and/or Website, to users, including registered users.

You are responsible for both:



- Making all arrangements necessary for you to have access to the Platform and Website.
- Ensuring that all persons who access the Platform or Website through your internet connection are aware of these Terms of Use and comply with them.

IV. **Account Registration; Account Use**

Account Registration: To access the Platform or some of the resources it offers, you may be asked to provide certain registration details or other information. If you create an account, you must provide us with complete and accurate information. You must promptly update such information to keep it complete and accurate. You are entirely responsible for maintaining the confidentiality of your password and account. If you choose, or are provided with, a user name, password, or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Platform or portions of it using your user name, password, or other security information. We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time if, in our sole discretion, you have violated any provision of these Terms of Use.

It is a condition of your use of the Platform that all the information you provide is correct, current, and complete. You agree that all information you provide to register with this Platform or otherwise, including, but not limited to, through the use of any interactive features, is governed by our Privacy Policy <https://www.capitola-ins.com/docs/privacy-policy>, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

Security of Your Account. You agree to notify Capitola immediately of any unauthorized use of your account or any other breach of security. We will not be liable for any loss, damages, liability, expenses or costs (including but not limited to legal fees) that you may incur as a result of someone else using your password or account, either with or without your knowledge. You will be liable for losses, damages, liability, expenses and costs (including but not limited to reasonable legal fees) incurred by Capitola or a third party due to someone else using your account, unless such use is due to Capitola's willful misconduct.

No Obligation to Retain a Record of Your Account. Capitola has no obligation to retain a record of your account or any data or information that you may have stored for your convenience by means of your account or the services available on the Platform and via our third party service providers.

Geographic Availability. The products and services offered by Capitola may vary depending on your region or device. In addition, there may be limits on the manner in which we can provide our goods and services. To complete your subscription, you may be required to have a valid billing and shipping address within the country from which you are purchasing our goods or services. Our goods and services may be subject to customs and export control laws and regulations, and you agree to comply with all such applicable international and national laws and regulations.

V. **Intellectual Property Rights**



The Platform and Website, and their entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by Capitola, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Platform and Website in accordance with the terms and conditions set forth herein. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Platform or Website, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Platform or Website for your own personal use and not for further reproduction, publication, or distribution.
- If we provide desktop, mobile, or other applications for download, you may download a single copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by our end user license agreement for such applications.
- If we provide *social media features* with certain content, you may take such actions as are enabled by such features.

You must not:

- Modify copies of any materials from this site.
- Use any illustrations, photographs, video or audio sequences, or any graphics separately from the accompanying text.
- Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

If you wish to make any use of material on the Platform or Website, other than that set out in this section, please address your request to: hello@capitola-ins.com.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Platform or Website in breach of the Terms of Use, your right to use the Platform and Website will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to the Platform or Website or any content on the Platform or Website, is transferred to you, and all rights not expressly granted are reserved by Capitola. Any use of the Platform or Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

VI. **Ownership; Trademarks**



Capitola retains all rights, title and ownership to the Platform and Website, including, without limitation, all rights in the patents, copyrights, trade secrets and other intellectual property in the Platform. All aspects and content of the Platform and Website, including the collection, arrangement and assembly thereof, are the property of Capitola and is protected by all applicable laws and international treaties.

The Capitola name and all related names, logos, product and service names, designs, and slogans are trademarks of Capitola or its affiliates or licensors. You must not use such marks without the prior written permission of Capitola. All other names, logos, product and service names, designs, and slogans on this Platform and Website are the trademarks of their respective owners.

VII. **Prohibited Uses**

You may use the Platform and Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Platform or Website:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material without our prior written consent, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate Capitola, a Capitola employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Platform or Website, or which, as determined by us, may harm Capitola or users of the Platform or Website, or expose them to liability.

Additionally, you agree not to:

- Use the Platform or Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Platform or Website, including their ability to engage in real time activities.
- Use any robot, spider, or other automatic device, process, or means to access the Platform or Website for any purpose, including monitoring or copying any of the material.
- Use any manual process to monitor or copy any of the material on the Platform or Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Platform or Website.

- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Platform or Website, the server on which the Platform or Website is stored, or any server, computer, or database connected to the Platform or Website.
- Attack the Platform or Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Platform or Website.

VIII. **Reliance on Information Posted**

The information presented on or through the Platform or Website is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Platform or Website, or by anyone who may be informed of any of its contents.

This Platform or Website may include content provided by third parties, including materials provided by other users, bloggers, and third-party licensors, syndicators, aggregators, and/or reporting services. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by Capitola, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Capitola. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

IX. **Changes to the Website**

We may update the content on this Platform or Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Platform or Website may be out of date at any given time, and we are under no obligation to update such material.

X. **Information About You and Your Visits to the Website**

All information we collect on this Platform or Website is subject to our Privacy Policy <https://www.capitola-ins.com/docs/privacy-policy>. By using the Platform or Website, you consent to all actions taken by us with respect to your information in accordance with the Privacy Policy.

XI. **Terms and Conditions**

Additional terms and conditions may also apply to specific portions, services, or features of the Platform or Website. All such additional terms and conditions are hereby incorporated by this reference into these Terms of Use.

XII. **Links from the Website**



If the Platform or Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Platform or Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

XIII. Disclaimer of Warranties

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Platform and/or Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. IN NO EVENT WILL CAPITOLA OR ANY OF ITS AFFILIATES, OFFICERS, OR DIRECTORS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, INCLUDING, WITHOUT LIMITATION, FOR ANY: (a) LOSS OF BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY IN THE PROVISION OF ANY SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) LOSS OF GOODWILL OR REPUTATION; OR (e) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER CAPITOLA WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

YOUR USE OF THE PLATFORM AND/OR WEBSITE, THEIR CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE PLATFORM AND/OR WEBSITE IS AT YOUR OWN RISK. THE PLATFORM AND WEBSITE, THEIR CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE PLATFORM AND/OR WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER CAPITOLA NOR ANY PERSON ASSOCIATED WITH CAPITOLA MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE PLATFORM OR WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER CAPITOLA NOR ANYONE ASSOCIATED WITH CAPITOLA REPRESENTS OR WARRANTS THAT THE PLATFORM OR WEBSITE, THEIR CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PLATFORM OR WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE



FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE PLATFORM AND/OR WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PLATFORM AND/OR WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, CAPITOLA HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR PARTICULAR PURPOSE, TITLE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

XIV. Limitation on Liability

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL CAPITOLA, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE PLATFORM OR WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE PLATFORM OR WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

XV. Indemnification

Company shall indemnify and hold harmless Capitola and its owners, successors, assigns, officers, directors, employees, agents and representatives (each, a “**Capitola Indemnitee**”) from and against any and all foreseeable or unforeseeable and alleged or actual actions, causes of action (whether in tort, agreement or strict liability, and whether in law, in equity, statutory or otherwise), bodily harm or personal injury, claims, damages (including consequential, direct, economic, exemplary, future, incidental, indirect, noneconomic, past, special and punitive), demands, disbursements, judgments, lawsuits, legal proceedings, liability, litigation, losses (including lost income or profit), property damage (including any harm, impairment, theft, loss or loss of use), sanctions, settlement payments, costs or expenses of any nature whatsoever, whether accrued, absolute, contingent or otherwise, including, without limitation, reasonable attorneys’ fees and costs (whether or not suit is brought), asserted against, imposed upon or incurred by a Fortress Indemnitee by any third party due to, arising out of or relating to (a) any breach by Company or any Authorized User of any term or condition of this Agreement; or (b)



any acts, activity or omissions, including but not limited to any breach of applicable laws and regulations or any negligence, misrepresentation, fraud or willful misconduct, by Company, any Authorized User or the officers, employees or agents of Company or any of its affiliates, or its independent contractors.

XVI. Governing Law and Jurisdiction

All matters relating to the Platform and Website, and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

Subject to Article XVII. below, any legal suit, action, or proceeding arising out of, or related to, these Terms of Use, the Platform or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of California, although we retain the right to bring any suit, action, or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

XVII. Arbitration

At Capitola's sole discretion, we may require You to submit any disputes arising from these Terms of Use or use of the Platform or Website, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying California law.

XVIII. Waiver and Severability

No waiver by Capitola of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Capitola to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

XIX. Entire Agreement

The Terms of Use and our Privacy Policy constitute the sole and entire agreement between you and Capitola regarding the Platform and Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Platform and Website.

XX. Your Comments and Concerns

This website is operated by Capitola.



All other feedback, comments, requests for technical support, and other communications relating to the Platform or Website should be directed to: hello@capitola-ins.com.