

# TERMS AND CONDITIONS

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THESE TERMS AND CONDITIONS ARE BINDING AND ENFORCEABLE AGAINST ALL PERSONS THAT:

- (A) ACCESS THE SUN MeDIA WEBSITE OR ANY PART THEREOF; AND/OR
- (B) PURCHASE ANY GOODS AND/OR SERVICES THROUGH THE SUN MeDIA WEBSITE OR ANY PART THEREOF

IN TERMS OF SECTION 11(3) OF THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT 25 OF 2002 ("ECTA").

IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS:

- DO NOT PURCHASE ANYTHING; AND/OR
- LEAVE THE SUN MeDIA WEBSITE NOW

AS FURTHER USE WILL AUTOMATICALLY BIND YOU TO THESE TERMS AND CONDITIONS.

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## DEFINITIONS AND INTERPRETATION

- a) "CA" means the Copyright Act 98 of 1978 (a copy of the Act can be downloaded at <http://thor.sabinet.co.za/netlawpdf/netlaw/COPYRIGHT%20ACT.htm>);
  - b) "CPA" means the Consumer Protection Act 68 of 2008 (a copy of the Act can be downloaded at <http://www.info.gov.za/view/DownloadFileAction?id=99961>);
  - c) "ECTA" means the Electronic Communications and Transactions Act 25 of 2002 (a copy of the Act can be downloaded at <http://www.info.gov.za/view/DownloadFileAction?id=68060>);
  - d) "PAIA" means the Promotion of Access to Information Act 2 of 2000 (a copy of the Act can be downloaded at <http://www.info.gov.za/view/DownloadFileAction?id=68186>);
  - e) "Purchaser" means any User who purchases (or attempts to purchase) any of the goods and/or services offered on the Website through the online purchasing mechanism of the Website;
  - f) "RICA" means the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 Of 2002 (a copy of the Act can be downloaded at <http://www.info.gov.za/gazette/acts/2002/a70-02>);
  - g) "SUN MeDIA" means African Sun Media (Pty) Ltd (registration number 2007/029441/07) and any of its subsidiaries;
  - h) "User" means any person who enters or uses the Website, notwithstanding the fact that such person only visits the homepage of the Website, and includes Purchasers;
  - i) "the Website" means the SUN MeDIA website located at <http://www.africansunmedia.co.za> and includes any part or element thereof;
  - j) References herein to the singular include the plural and vice versa and references to persons include juristic persons; and
  - k) Notwithstanding the fact that hyperlinks in these terms and conditions to copyright notices and legislation should be deemed part of these terms and conditions in terms of section 11 of the ECTA, the fact that some or all of the hyperlinks may be non-operational shall not play a role in determination of the validity and interpretation of these terms and conditions.
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## 1. GENERAL

SUN MeDIA is an integrated content manager and specialist supplier of publishing, design and printing services for the higher education market and private sector.

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## 2. DISCLOSURES REQUIRED BY SECTION 43 OF THE ECTA

Purchasers have the rights detailed in Chapter 7 of the ECTA and SUN MeDIA has the duty to disclose the following information:

- 2.1 **full name and legal status of the supplier:** African Sun Media (Pty) Ltd (registration number 2007/029441/07), a company duly registered in terms of the Companies Act;
- 2.2 **physical address:** Admin Building A, Ground Floor, Stellenbosch University, Ryneveld Street, Stellenbosch, South Africa; and **telephone number:** 021-808-2401;
- 2.3 **website address:** [www.africansunmedia.co.za](http://www.africansunmedia.co.za); and **email address:** [africansunmedia@sun.ac.za](mailto:africansunmedia@sun.ac.za);
- 2.4 **membership of self-regulatory or accreditation bodies:** none;
- 2.5 **codes of conduct to which SUN MeDIA subscribes:** [SUN MeDIA's Identity & Values](#)
- 2.6 **registration number and place of registration:** 2007/029441/07, with the registered office situated at TechnoPark, Cnr. Techno Drive and Electron Crescent, Stellenbosch, 7600; and the **names of the office bearers** can be obtained [here](#);

- 2.7 **physical address for receipt of legal service:** Admin Building A, Ground Floor, Stellenbosch University, Ryneveld Street, Stellenbosch, South Africa;
- 2.8 **main business:** SUN MeDIA is an integrated content manager and specialist supplier of publishing, design and printing services for the higher education market and private sector;
- 2.9 **Prices** can be obtained [here](#);
- 2.10 the **manner of payment** is described [here](#);
- 2.11 the **terms of agreement** between SUN MeDIA and Purchasers: as set out in these Terms and Conditions;
- 2.12 the **time within which goods will be dispatched:** as set out in clause 12 below;
- 2.13 the **manner and period within which a Purchaser can access and maintain a full record of transactions:** all previous transactions are recorded in the Purchaser's online account and can be accessed at any time;
- 2.14 **return and refund policy:** as set out in clause 13 of these Terms and Conditions;
- 2.15 **alternative dispute resolution:** Subject to urgent and/or interim relief, all disputes regarding:
- 2.15.1 purchases of goods and/or services through the Website;
  - 2.15.2 shipping of goods purchased through the Website;
  - 2.15.3 returns and/or refunds in respect of goods and/or services purchased through the Website; or
  - 2.15.4 these Terms and Conditions;
- shall be referred to arbitration in terms of the expedited rules of the Arbitration Foundation of Southern Africa and such arbitration proceedings shall be conducted in Stellenbosch in English. The arbitration ruling shall be final and the unsuccessful party shall pay the costs of the successful party on a scale as between attorney and own client. The expedited rules of the Arbitration Foundation of Southern Africa may be downloaded from the following website: <http://www.arbitration.co.za>; and
- 2.16 **security procedures and privacy policy:** as set out in clauses 5 and 4 of these Terms and Conditions respectively.

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### 3. CHANGES AND AMENDMENTS

SUN MeDIA expressly reserves the right, in its sole and absolute discretion, to do any of the following, but not limited hereto, at any time without prior notice (save for in-process or fulfilled orders):

- 3.1 change these Terms and Conditions;
- 3.2 change the content, goods and/or services available on the Website;
- 3.3 change the prices of goods and/or services available on the Website;
- 3.4 change the payment method(s) available on the Website;
- 3.5 discontinue any aspect of the Website or goods/services available on the Website; and/or
- 3.6 change the software and hardware required to access and use the Website.

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### 4. PRIVACY

- 4.1 SUN MeDIA shall take all reasonable steps to protect the personal information of Users and for the purpose of this clause, "personal information" shall be defined as detailed in the PAIA.
- 4.2 SUN MeDIA may electronically collect, store and use the following personal information of the User/Purchaser:
  - 4.2.1 name, surname and contact numbers;
  - 4.2.2 shipping and billing details;
  - 4.2.3 non-personal browsing habits and click patterns;
  - 4.2.4 e-mail address; and
  - 4.2.5 IP address;but EXCLUDES information pertaining to debit or credit cards.
- 4.3 SUN MeDIA collects, stores and uses the aforementioned information for the following purposes:
  - 4.3.1 to communicate with the Purchaser regarding the Purchaser's order(s);
  - 4.3.2 to communicate requested information to the User;
  - 4.3.3 to send correspondence to the Purchaser regarding new titles and products which may be of interest to the Purchaser; and
  - 4.3.4 to compile non-personal statistical information about browsing habits, click patterns and access to the Website.

- 4.4 Information detailed above is collected either electronically by using cookies or is provided voluntarily by the User. Users may determine cookie use independently through their browser settings.
  - 4.5 SUN MeDIA may collect, maintain, save, compile, share, disclose and/or sell any information collected from Users, subject to the following provisions:
    - 4.5.1 SUN MeDIA shall not disclose personal information of the User unless the User consents thereto;
    - 4.5.2 shipping and billing details will be used exclusively for the handling of the Purchaser's orders and shall not be sold, rented or given away to a third party;
    - 4.5.3 SUN MeDIA shall disclose information without the User's consent only through due legal process;
    - 4.5.4 SUN MeDIA may compile, use and/or share any information that does not relate to any specific individual User; and
    - 4.5.5 SUN MeDIA owns and retains all rights to non-personal statistical information collected and compiled by SUN MeDIA.
  - 4.6 On registering with MyGate Payment Gateway, the Purchaser's details will be kept in a secure server for use in other MyGate Payment Gateway transactions. The Purchaser's debit or credit card details are never seen or stored by SUN MeDIA.
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## 5. SECURITY

- 5.1 SUN MeDIA shall take all reasonable steps to secure the payment information provided by Purchasers from unauthorised access and/or disclosure. However, SUN MeDIA does not make any warranties or representations in this regard.
  - 5.2 On entering the "shopping cart", the Purchaser shall be on a secure server using SSL (Secure Socket Layer) technology and MyGate Payment Gateway, which encrypts all of the Purchaser's personal information (including credit card number, name and address) so that it cannot be read as the information travels over the internet. This secure connection will be evidenced by <https://> appearing at the start of the address in the browser navigation bar and by the Verisign Digital Certificate which will be displayed on the screen.
  - 5.3 SUN MeDIA shall take all reasonable steps to secure the content of the Website, and the information provided by and collected from Users, from unauthorised access and/or disclosure. However, SUN MeDIA does not make any warranties or representations that content shall be 100% safe and secure.
  - 5.4 SUN MeDIA is under no legal duty to encrypt any content or communications from and to the Website, and is also under no legal duty to provide digital authentication of any page on the Website.
  - 5.5 Users may not deliver or attempt to deliver – whether on purpose or negligently – any damaging code (such as computer viruses) to the Website or the server and computer network that support the Website.
  - 5.6 Notwithstanding criminal prosecution, any User who delivers any damaging code to the Website, whether on purpose or negligently, shall, without any limitation, indemnify and hold SUN MeDIA harmless against any and all liability, damages and losses SUN MeDIA and its partners/affiliates may cause as a result of such damaging code.
  - 5.7 Users may not develop, distribute or use any device to breach or overcome the security measures of the Website, and SUN MeDIA reserves the right to claim damages against any and all persons concerned with a security failure or breach.
  - 5.8 Any User who commits any of the offences detailed in sections 85 to 88 of the ECTA shall, notwithstanding criminal prosecution, be liable for all resulting liability, loss or damages suffered and/or incurred by SUN MeDIA and its partners/affiliates.
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## 6. DISCLAIMER AND LIMITATION OF LIABILITY

- 6.1 Subject to the provisions of sections 43(5) and 43(6) of the ECTA, if applicable and as far as allowed by law, SUN MeDIA (including its owners, employees, suppliers, Internet service providers, partners, affiliates and agents) shall not be liable for any damage, loss or liability of any nature incurred by whomever and resulting from:
  - 6.1.1 purchases of goods and/or services through the Website;
  - 6.1.2 inability to purchase goods and/or services through the Website;
  - 6.1.3 failure of the online payment system;
  - 6.1.4 access to (or inability to access) the Website;
  - 6.1.5 access to (or inability to access) websites linked to the Website;
  - 6.1.6 content, goods and/or services available on the Website;
  - 6.1.7 downloads and use of content from the Website; or
  - 6.1.8 any other reason not directly related to gross negligence by SUN MeDIA.
- 6.2 The Website is supplied on an "as is" basis and has not been compiled to meet the User's individual requirements. It is the responsibility of the User to satisfy him/herself, prior to entering into this agreement with SUN MeDIA, that the content available from and through the Website meets the User's individual requirements and is compatible with the User's computer hardware and/or software.
- 6.3 Information, ideas and opinions expressed on the Website should not be regarded as professional advice or the official opinion of SUN MeDIA, and Users are encouraged to consult professional advice before taking any course of action related to the information,

ideas or opinions expressed on the Website. Furthermore, opinions, ideas and information expressed in the content being sold are those of the rights holders only, and should not in any way be interpreted to reflect or represent the opinions and/or ideas of SUN MeDIA, and are not necessarily supported or endorsed by SUN MeDIA.

- 6.4 SUN MeDIA does not make any warranties or representations that content and services available from the Website will in all cases be true, correct or free from any errors. SUN MeDIA shall take all reasonable steps to ensure the quality and accuracy of content available from the Website.
- 6.5 SUN MeDIA does not make any warranties or representations that the Website or the online purchasing mechanism shall be available at all times. Users acknowledge that the Website or the online purchasing mechanism may be unavailable due to updates or other causes beyond the reasonable control of SUN MeDIA, including, but not limited to, virus infection, unauthorised access, power failure or “acts of God”.

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## 7. ILLEGAL, INFRINGING AND HARMFUL ACTIVITIES

Users are encouraged to report to SUN MeDIA ([africansunmedia@sun.ac.za](mailto:africansunmedia@sun.ac.za)) any illegal, infringing and/or harmful activities of which the User becomes aware in respect of the online purchasing mechanism.

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## 8. INTERCEPTION OF COMMUNICATIONS

- 8.1 Subject to the provisions of RICA, the Purchaser agrees to SUN MeDIA’s right to intercept, block, filter, read, delete, disclose, where necessary, and/or use all data and information sent or posted by the Purchaser during use of the online purchasing mechanism.
- 8.2 The Purchaser agrees and acknowledges that the consent provided by the Purchaser in clause 8.1 satisfies the “writing” requirement as detailed in the ECTA and RICA.

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## 9. ENTIRE AGREEMENT AND SEVERABILITY

- 9.1 These Terms and Conditions constitute the entire agreement between SUN MeDIA and the User, and shall take precedence over any disclaimers and/or legal notices attached to any communications and/or postings received by SUN MeDIA from the User.
- 9.2 Any failure by SUN MeDIA to exercise or enforce any right or provision shall in no way constitute a waiver of such right or provision.
- 9.3 In the event that any term or condition detailed herein is found unenforceable or invalid for any reason, such term(s) or condition(s) shall be severable from the remaining terms and conditions. The remaining terms and conditions shall remain enforceable and applicable.

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## 10. AGREEMENT IN TERMS OF SECTION 23 OF THE ECTA

The User and SUN MeDIA agree that:

- 10.1 the User shall be bound to these Terms and Conditions and such agreement is concluded in Stellenbosch (South Africa) as soon as the User enters the Website for the first time or, when a User is making an online purchase, as soon as the Purchaser indicates acceptance of these Terms and Conditions by clicking on the “I Accept” button provided;
- 10.2 data messages (as defined in the ECTA) addressed by the User to SUN MeDIA shall only be deemed to have been received if and when responded to;
- 10.3 data messages (as defined in the ECTA) addressed to the User by SUN MeDIA shall be deemed to be received by the User as detailed in section 23(b) of the ECTA;
- 10.4 data messages (as defined in the ECTA) addressed by the User to SUN MeDIA shall be deemed to have been created and sent by the User from within the geographical boundaries of South Africa;
- 10.5 electronic signatures, encryption and/or authentication are not required for valid electronic communications between the User and SUN MeDIA; and
- 10.6 the User agrees and warrants that data messages that are sent to SUN MeDIA from a computer, IP address or mobile device normally used by or owned by the User, were sent and/or authorised by the User personally.

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## 11. ONLINE PURCHASING

- 11.1 The purchasing of goods and services from the Website is governed by the CPA and the ECTA.
- 11.2 By purchasing goods and/or services from the Website, the Purchaser agrees and undertakes to be bound by these Terms and Conditions.
- 11.3 When placing an order, the Purchaser shall ensure that the details and specifications of the order are correct as the details of the order will be relied on by SUN MeDIA in the provision of the goods and/or services.
- 11.4 The Purchaser shall be liable for any costs incurred due to changes required by the Purchaser or due to errors in the order specifications.

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## 12. SHIPPING

- 12.1 SUN MeDIA shall execute the Purchaser's order within 30 (thirty) days from the date of submission of the order, unless agreed otherwise between SUN MeDIA and the Purchaser.
- 12.2 If SUN MeDIA fails to execute the order as per clause 12.1 above, the Purchaser may cancel the order by giving SUN MeDIA 7 (seven) days' notice in writing.
- 12.3 If the goods and/or services ordered by the Purchaser are unavailable, SUN MeDIA shall immediately notify the Purchaser of the unavailability of the goods and/or services and shall refund any payments made by the Purchaser within 30 (thirty) days after such notification.

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## 13. RETURNS AND REFUNDS

- 13.1 A Purchaser may, at SUN MeDIA's risk and expense, return goods purchased on the website if:
  - 13.1.1 the goods are not of the type and quality as reasonably contemplated and agreed between SUN MeDIA and the Purchaser;
  - 13.1.2 the goods do not reasonably conform to the material specifications of the order;
  - 13.1.3 within 6 (six) months after delivery to the Purchaser, the goods have been found to contain defects and are not usable or durable for a reasonable period of time, having regard to the use to which they would normally be put and to the surrounding circumstances of their supply; or
  - 13.1.4 the goods have been found to not be suitable for the particular purpose communicated to SUN MeDIA.
- 13.2 Goods returnable in terms of 13.1.1, 13.1.2 and 13.1.4 above must be returned to SUN MeDIA within 10 (ten) business days after delivery to the Purchaser.
- 13.3 Goods may not be returned once they have been partially or entirely disassembled or physically altered in any way.
- 13.4 SUN MeDIA shall refund the Purchaser for the price paid for the goods, less any amounts allowed in terms of the CPA.
- 13.5 Notwithstanding 13.1 – 13.4 above, e-books may not be returned and will not be refunded.

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## 14. ALLOWED USE, LICENCE AND COPYRIGHT

- 14.1 SUN MeDIA shall allow the User to view the content of the Website, and, subject to the prior written consent of SUN MeDIA, to download, print, copy, photocopy or reproduce the content of the Website (including text, illustrations, diagrams or graphics) for use as approved by SUN MeDIA for non-commercial purposes only. Permission in this regard can be obtained by submission of the [Permission Request Form](#) to [africansunmedia@sun.ac.za](mailto:africansunmedia@sun.ac.za). Permission shall not be withheld unreasonably, and permission will be granted taking into account the provisions of "Fair use" in the CA.
- 14.2 Copyright permission for the non-commercial use of any extracts from any publications of SUN MeDIA can be obtained by submission of the [Permission Request Form](#) to [africansunmedia@sun.ac.za](mailto:africansunmedia@sun.ac.za).
- 14.3 Users may not access and use the Website for illegal purposes.
- 14.4 The caching of the Website shall only be allowed if:
  - 14.4.1 the purpose of the caching is to make the onward transmission of the content from the Website more efficient;
  - 14.4.2 the cached content is not modified in any manner whatsoever;
  - 14.4.3 the cached content is updated at least every 12 (twelve) hours; and
  - 14.4.4 the cached content is removed or updated when so required by SUN MeDIA.
- 14.5 If any User uses content from the Website in breach of the provisions detailed herein:
  - 14.5.1 SUN MeDIA reserves the right to claim damages from the User;
  - 14.5.2 SUN MeDIA reserves the right to institute criminal proceedings against the User; and
  - 14.5.3 SUN MeDIA shall not be liable, in any manner whatsoever, for any damage, loss or liability that results from the use of such content by the User or any third party who obtained any content from the User.
- 14.6 Hyperlinks to the Website from any other source shall be directed at the homepage of the Website. SUN MeDIA shall not be liable, in any manner whatsoever, for any damage, loss or liability that results from the use of content from the Website, if such content was accessed through a hyperlink not directed at the homepage of the Website. Persons that wish to link to content beyond the homepage of the Website, shall do so at their own risk and indemnify SUN MeDIA against any loss, liability or damage that may result from the use of content from the Website, if such content was accessed through a hyperlink not directed at the homepage of the Website.
- 14.7 SUN MeDIA's non-liability for deep linking is based on the fact that deep links bypass these terms and conditions.

- 14.8 No User may frame the Website in any manner whatsoever without the prior written consent of SUN MeDIA.
- 14.9 Apart from bona fide search engine operators and use of the search facility provided on the Website by Users, no User may use or attempt to use any technology or applications (including web crawlers or web spiders) to search or copy content from the Website for any purposes, without the prior written consent of SUN MeDIA.
- 14.10 All licences and/or permissions granted in terms of this clause 14 are provided on a non-exclusive and non-transferable basis and may be terminated or cancelled by SUN MeDIA at any time without giving reasons therefore.
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#### **15. INTELLECTUAL PROPERTY RIGHTS AND DOMAIN NAME USE**

- 15.1 All intellectual property on the Website, including but not limited to content, trademarks, domain names, patents, design elements, software, databases, text, graphics, icons and hyperlinks, is the property of or licensed to SUN MeDIA and as such is protected from infringement by domestic and international legislation and treaties. Subject to the rights licensed to the User in clause 14, all other rights to intellectual property on the Website are expressly reserved.
- 15.2 SUN MeDIA, SUN-e-SHOP, PRINT-2-ORDER, eRAP, RAPID ACCESS PUBLISHERS, SUN ePRESS, SUN PRESS, SUNePRESS and the distinctive "sun" logo are trademarks of SUN MeDIA and Users agree not to use any of the trademarks, whether as an element of a domain name or subdomain name or in any other format whatsoever, notwithstanding the fact that such domain name use or registration may be allowed in terms of trademark and/or constitutional law. Upon request to do so, a User shall immediately cease to use such domain name and transfer it to SUN MeDIA at the cost of the User.
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#### **16. SOFTWARE AND COMPUTER EQUIPMENT**

It is the responsibility of the User to acquire and maintain, at his/her own expense, the computer hardware, software, lines and access accounts required to access the internet and the Website and/or download content from the Website.

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#### **17. HYPERLINKS TO THIRD PARTY SITES**

- 17.1 SUN MeDIA may provide hyperlinks to websites not controlled by SUN MeDIA ("Target Sites") and such links do not imply any endorsement, agreement on or support for the content of such Target Sites.
- 17.2 SUN MeDIA does not editorially control the content on such Target Sites and shall not be liable, in any manner whatsoever, for the access to, inability to access or content available on or through such Target Sites.
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#### **18. REMOVAL AND CORRECTION OF CONTENT**

Users are encouraged to report untrue, inaccurate, defamatory, illegal, infringing and/or harmful content available on the Website to SUN MeDIA ([africansunmedia@sun.ac.za](mailto:africansunmedia@sun.ac.za)), and SUN MeDIA undertakes to correct and/or remove such content or any part thereof, if the person reporting such content provides reasonable grounds to prove the alleged nature of the content.

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#### **19. APPLICABLE AND GOVERNING LAW**

Subject to clause 2.15, the Website is hosted, controlled and operated from the Republic of South Africa, and therefore the South African law enforced by the South African courts governs the use or inability to use the Website, its content, services and these Terms and Conditions.

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#### **20. COSTS**

SUN MeDIA shall not be liable for costs incurred by Users to obtain professional advice relating to these Terms and Conditions.

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