

## **Terms and Conditions of Use**

Last Updated : June 2009

### **Who we are**

Thunda Com (Pty) Ltd (the "Company") is a privately held South African company. It operates a photo sharing social networking website focused around social photography, venues and social activities in South Africa.

The terms "we" and "us" refers to Thunda Com (Pty) Ltd, or any successor or assignee of the Company.

### **Definitions**

"Websites" means the Thunda.com website ("Thunda.com"), MyThunda.com website ("MyThunda.com") and Mobile Internet Website ("M.Thunda.com) operated by the Company.

"Registrants" means those who have registered on the Websites.

"Subscribers" means those who pay for services on the Websites.

"You" and "Users" means those individuals who visit the Websites, Registrants and Subscribers.

"Services" means the services provided through the Websites including the right to upload and download "Content" as defined below.

"Company Content" means the photographs taken by the Company's brand ambassador photographers contracted by the Company that are published on the Websites.

"User Content" means all content uploaded by Users.

"Content" means Company Content and User Content.

"Subscription" means a paid subscription to utilize certain services on the Websites.

### **Introduction**

The Company operates the Websites.

By accessing the Websites on [www.thunda.com](http://www.thunda.com), [www.mythunda.com](http://www.mythunda.com), [m.thunda.com](http://m.thunda.com) or on any other domain or subdomain operated by the Company, you (the "User") signify that you have read, understand, accept and agree to abide by these Terms and Conditions of Use.

The use of the Websites, the Services and access to the Content thereon is subject to these Terms and Conditions of Use. Use of the Websites is open to anybody over the age of 18 (eighteen) years old. Eligibility for specific services, promotions or competitions may vary. Use or access to the Websites by anyone under eighteen years old is unauthorised, unlicensed and in violation of these Terms and Conditions of Use. By using the Websites, you, the User warrant that you are 18 (eighteen) years or older.

We reserve the right to add, change and remove Services and Content at our discretion.

### **Content and Editorial Control**

The Websites contains Company Content. Photographers capturing Company Content are governed by a Company Code of Conduct and guidelines outlining the kinds of Company Content our photographers are permitted to capture. The Company endeavours to screen all Company Content captured by the Company's photographers prior to being published on the Websites. Any offending Company Content will readily be removed upon request. Such inquiries and requests should be directed to [photos@thunda.com](mailto:photos@thunda.com).

The Websites also provide the opportunity for Users to upload User Content. Users agree not to upload, post, transmit, share, store or otherwise make available content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any South African or international law.

All User Content has a report icon beneath it and when clicked on, this User Content is removed from the Websites until such time as it has been reviewed by a Company moderator.

Users also agree not to upload, post, transmit, share, store or otherwise make available User Content that, in the sole judgment of Company, is objectionable or which restricts or inhibits any other person from using or enjoying the Website, or which may expose the Company or its Users to any harm or liability.

Users agree not to upload any User Content that :

1. is abusive, deceptive, pornographic, obscene, defamatory, slanderous, offensive, or otherwise inappropriate

2. comprises copyrighted material used without the express permission of the copyright owner;
3. violates or otherwise encroaches on the rights of others;
4. contains viruses, worms, corrupt files, Trojan horses or other forms of corruptive code, or any other content (collectively "Corruptive Code") that may compromise the Websites or their Services;
5. harms anyone, including minors;
6. advocates illegal activity; or,
7. provides a link to any of the above.

The Websites also contain content provided by third parties and hyperlinks to other websites. The Company does not screen or filter such content on these websites or information available from other websites for accuracy, appropriateness, completeness, privacy policies and other policies and therefore does not endorse them nor does it accept any liability for defamatory, illegal or criminal content contained on other websites. We encourage our Users to report any infringement, illegal or criminal content found on any of the websites available through links from the Company's Websites in order for us to investigate whether such links should be removed.

### **User Conduct**

All Users agree to use the Websites, the Services and the Content in a lawful manner and agree not to act in a manner that could disable, overburden, damage or impair the Websites or that could demean or harm any person, organization or advertiser. The use of automated scripts to gather content or collect information is strictly prohibited and by using the Websites, by accessing the Websites, their Content or their Services, Users agree to be bound by these Terms and Conditions of Use.

Users agree not to use the Websites to engage in harmful, threatening, defamatory, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, unlawful, privacy invasive, hateful, racist or otherwise objectionable behaviour.

Users agree not to create more than one account or to register accounts on behalf of other people. Users agree that accounts may only be set up in their own names and not in the names of their organisations or affiliate institutions.

Users also hereby agree not to impersonate anyone else or to misrepresent their own identity through the Websites.

### **Rules**

You agree to the following:

1. You will not reprint, republish or distribute in any way any information or materials found on the Websites.
2. You will not use any of the information on the Websites for sending emails or for solicitation purposes or for any other purposes involving solicitation in any way.
3. You will not provide to us or post on the Websites any information that is not correct, such as an incorrect name, address, email address or any other incorrect information.
4. You will not publish any material that contains sexually related text, photographs or other content, or content that is defamatory, obscene, indecent, threatening, abusive or hateful.
5. You will not share your password. Each User account is for use of the Services only with one mobile phone. You will not use your User account with more than one mobile phone.
6. You will not attempt to decipher, decompile, disassemble or reverse engineer any of the software comprising or in any way used or downloaded from the Website.
7. You will not post any materials on our Website in violation of any other party's rights, including, but not limited to, copyrights or privacy and publicity rights.

### **Distribution of Content**

The Websites provide a service whereby Users can email Content to other people as well as share photographs on Facebook through a Thunda.com Application. Notwithstanding this service, the Company specifically retains ownership and copyright to each and every photograph and their commercial distribution, reproduction, publication, adaptation, sale, either in part or whole, online, in print, or any cinematograph film, video film or television broadcast, requires the prior written permission of the Company. By making these photographs available to the Users, the Company is in no way whatsoever assigning its rights, title and interest including copyright to the photographs throughout the world and in perpetuity.

### **Content Sharing on Facebook**

The Websites provide a mechanism for its users to share content on the Websites to their personal profiles on Facebook. Users may avail themselves of this service subject to their adherence of these Terms and Conditions of Use as well as the Terms of Use of Facebook (<http://www.facebook.com/terms.php>). Thunda.com expects its users to use this feature responsibly, to respect the privacy of others and to act in good faith. The Company cannot control how its users present this content on Facebook or with whom they share it with. We cannot therefore be responsible for any photo uploads, posts, comments, tags or links associated with the Website's content published by users on Facebook.

Similarly, we cannot be responsible for its content being posted or share to other sites that it does not control.

In order to upload or share Thunda.com photographs on Facebook, the User may not in any way tamper or alter the photograph, including the deletion of the Thunda.com logo or the logo of any of its advertisers or partners.

Furthermore, Users agree not to share photographs or galleries that could in any way harm or demean a person, organization or advertiser, that could contravene these Terms and Conditions of Use or that could contravene the rights of any entity upheld in terms of the Company's Privacy Policy.

For the avoidance of any doubt, Users are required to strictly adhere to these Terms and Conditions of Use in the sharing of Content through the Thunda.com Application on Facebook.

### **Termination and Removal**

The Company reserves the right to terminate the Services and remove any of your uploads at any time in its discretion. The Company has posted Copyright Notification and Removal Policies and you agree to notify us in accordance with those Policy if you are aware of any infringement of your proprietary or other rights.

### **Privacy**

The Company respects the privacy of its Users and it takes specific steps to protect it. Please review our Privacy Policy.

The purpose of Thunda.com is to display photographs of people having fun with their friends. It is never the Company's intention to depict anybody in a negative light. If for any reason whatsoever you would like a photograph deleted from the Website or you feel as though a particular photograph is offensive and should be removed from the Website, please send your photo deletion request to [photos@thunda.com](mailto:photos@thunda.com) and we will oblige.

### **Limitation of Liability & Disclaimer**

Although the Company endeavours to provide accurate, up to date and truthful Content on the Websites, neither the Company nor any of its subsidiaries, affiliates, directors, shareholders, officers, agents, contractors, partners, employees, suppliers, information providers, licensors and service providers make any representations or give any warranties,

whether expressly, tacitly or implied, as to the operation of the Websites, the Services or the Company Content, User Content, software, applications, advertising and products included and / or available from the Websites.

The Company, its subsidiaries, affiliates, directors, shareholders, officers, agents, contractors, partners, employees, suppliers, information providers, licensors and service providers will not be responsible or liable for any damage or loss of whatsoever nature, including but not limited to personal injury or death, direct, indirect, incidental, exemplary, special, punitive and consequential damages, including that for lost profits or lost data and refusal or inability of the competition sponsor to deliver the prizes, arising or resulting from the use of or inability to use the Websites, the Services, the Company Content, User Content, software, applications, advertising and products, prizes or any interactions between Users of the Websites, whether online or offline.

The Company is not responsible for any technical malfunctions or other problems of any telephone network or service, computer systems, servers or service providers, computer or mobile telephone equipment, software, failure of email due to technical problems or traffic congestion on the Internet or at any website or any combination thereof, including injury or damage to the User's or to any other person's computer, mobile phone or other hardware or software, related to or resulting from using or downloading materials in connection with the internet and / or related to the use of the Websites.

The Websites, the Services, Company Content, User Content, software, applications, advertising and products are provided "as is" and the Company hereby disclaims any and all representations and warranties, whether express or implied, including without any limitation whatsoever any implied warranties of ownership, title, suitability for a particular purpose or non-infringement.

The Company cannot guarantee nor does it warrant or promise any specific results of benefits from the use of the Websites. Furthermore, the Company does not represent or warrant that the Websites, the Services, Company Content, User Content, software, applications, advertising and products or any applications associated with it, are accurate, complete, reliable, current or free of error or that the Websites, its Content, its Services, its software, its applications or its servers are free of viruses or other harmful components.

Users should therefore exercise caution in the use and downloading of any applications, software or Content and should utilize industry recognized software to detect and disinfect any viruses.

Users understand and agree that any Company Content, User Content, application, software

or advertising that they download or otherwise obtain through the Websites is at their own discretion and risk and that they are solely responsible for the use thereof and any damage whatsoever that may result, including but not limited to the use of this Content on Facebook or any other website.

You assume full responsibility and risk of loss resulting from your use of the Websites including any downloads from the Websites. Under no circumstances shall the Company or any of its employees or representatives be liable for any indirect, punitive, special or consequential damages even if the Company or any of its employees or representatives have been advised of the possibility of such damages. Notwithstanding anything to the contrary contained herein, the Company's liability to the User for any cause whatsoever, regardless of the form or nature of the claim or action, will at all times be limited to the amount paid by the User, if any, to the Company for the Services, but in no case will the Company's liability exceed R1,000 (one thousand Rand). You hereby release the Company and its employees and representatives from any and all obligations, liabilities and claims in excess of this limitation.

By utilizing the Websites the User acknowledges that if no fees have been paid by the User to the Company for the use of the Website, Services or Content, the User shall be limited to injunctive relief only, unless otherwise permitted by law, and the User shall not be entitled to damages of any kind from the Company, regardless of the cause of the action.

Users agree to indemnify and hold the Company, its subsidiaries, affiliates, directors, shareholders, officers, agents, contractors, partners, employees, suppliers, information providers, licensors and service providers, harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable attorney's fees, arising out of or in connection with any Company Content, User Content, applications, software or advertising Users post or share on or through the Websites (including without limitation through the Thunda.com Application on Facebook), the Users' use of the Services or the Websites, the Users' conduct in connection with the Websites, the Services or the Content or with other Users of the Websites, Services or Content, or any violation of this Agreement or of any law or the rights of any third party.

Users agree to indemnify, defend and hold harmless the Company, its subsidiaries, affiliates, directors, shareholders, officers, agents, contractors, partners, employees, suppliers, information providers, licensors and service providers against any and all losses, claims, liabilities, expenses, damages and costs, including reasonable Attorney's fees, resulting from any violation of these Terms and Conditions of use or any activity relating to the Websites, Services or Content including but not limited to negligent and wrongful conduct by the User or any other person accessing the Websites, Services or Content by using another User's

account.

To the fullest extent permitted by the law, the Company, its subsidiaries, affiliates, directors, shareholders, officers, agents, contractors, partners, employees, suppliers, information providers, licensors and service providers will have no obligation or liability, whether arising in contract, warranty, negligence, product liability or otherwise, for any direct, incidental, indirect, special or consequential damages or liabilities (including any loss of data, revenue or profit) arising from the use of the Websites, its Content or its Services, even if the Company has been advised of the possibility of such damages.

This limitation applies to damages arising from (a) the use or inability to use the Websites, Content or Services (b) the cost of the procurement of substitute services (c) unauthorized access to or the alteration of a User's transmission by third parties (d) third party content made available to the User through the Websites (e) any other matter relating to the Websites, Content or Services.

The Websites, Content and the Services may be unavailable from time to time for maintenance or other reasons. The Company assumes no responsibility for any error, omission, interruption, deletion, defect or delay in the operation of the Websites or the delivery of its Content or the transmission of its Services.

### **No Warranties**

Except as expressly set forth herein, the material on this website (including all Content, software, functions, Services, materials and information made available herein or accessed by means hereof) are provided as is, without warranties of any kind, either express or implied, including but not limited to, warranties of merchantability and fitness for a particular purpose.

### **Disclaimers**

We are not responsible for any User Content or any links to other websites or mobile internet sites posted by Subscribers. Inclusion of any link from our Website to another website or mobile internet site does not imply approval or endorsement of the linked website or mobile internet site by us. When you access User Content or any third-party sites, you do so at your own risk. We take no responsibility for third party advertisements that are posted on the Websites, nor do we take any responsibility for the goods or services provided by advertisers. We are not responsible for the conduct, whether online or offline, of any user of the Services. We assume no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, the Services. We are not responsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers'

computer equipment or software. We are not responsible for any failure of any upload or download due to technical problems or traffic congestion on the internet or any wireless network. We are not responsible for any injury or damage to any person's computer or mobile phone related to or resulting from use of the Services including downloading materials in connection with the Services. Under no circumstances shall we be responsible for any loss or damage, including personal injury or death, resulting from use of the Services, attendance at an event, from any Content posted on or through the Services, or from the conduct of any users of the Services, whether online or offline. The Services are provided "AS-IS" and as available and we expressly disclaim any warranty of fitness for a particular purpose or non-infringement. We cannot guarantee and do not promise any specific results from use of the Services.

### **User Disputes**

Users are solely responsible for their interactions with other Users.

### **Competition Eligibility**

Employees of the Company, it's advertising and promotions' agencies and immediate families are not eligible for entry into competitions. Certain competitions may only be open to legal South African residents, over the age of eighteen.

### **Competition Rules**

- Entry to all competitions hosted on the Websites are subject to these Terms and Conditions of Use, the Privacy Policy and the Rules of each competition.
- Unless otherwise specified, each person may only submit only one entry per competition.
- Entries submitted through the use of macros, scripts or any automated means are ineligible.
- Competition entrants may be provided with the opportunity to increase their chances of winning through referring other eligible persons to a specific competition.
- Competition entries are logged when received by the Company and not when sent by entrants.
- The Company does not bear responsibility for entries lost through negligence, mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation or transmission or any failure of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorised access to our host's records, programmes or services.
- Competition entries must be received within the specified dates and times.
- Specified dates and times are subject to change at the Company's discretion.

- The judges' decision is final and no correspondence will be entered into.

### **Drawing**

- All entries with the correct answer(s) to the competitions' qualifying question(s) will be included in the draw.
- Additional entries, accrued through successful referrals to competitions, will be included in the draw.
- The draw is made randomly from all correct entries.
- For competitions that accept postal and internet entries, prizewinners will be selected randomly from a pooling of all entries.

### **Notification**

- Prize-winners will be notified by email or telephone. In the event of email being undeliverable to the address recorded in the Websites' registration form or entry form or an email being unanswered, the Company reserves the right to draw other prizewinners once reasonable attempts to contact the prize-winners have been made. Website registrants are therefore required to make sure that the email address and telephone number in the Website registration form or entry form are current.
- Prize-winners may be posted on the Website.
- Upon notification, prize-winners may be required to sign an affidavit confirming their personal information.
- Entry into a competition confers upon the Company, its clients and/or appointed agents, permission to use the prize-winner's name, likeness and voice for purposes of promotion or publicity without additional compensation.
- Winners for a specific competition can also be requested by sending a self-addressed and stamped envelope to Thunda.com, PO Box 528, Green Point, 8051.

### **Submissions**

The User acknowledges and agrees that any questions, comments, suggestions, ideas, feedback or other information about the Websites or the Services ("Submissions"), provided to the Company are non-confidential and shall become the sole property of Company. The Company shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to the User.

### **Registrant Information**

In order to avail of certain services provided by the Websites, Users are required to register. Registrants on the website hereby agree (1) to provide current, accurate and complete information (2) to maintain the currency of this information (3) to secure their passwords (4) to take full responsibility for any actions taking place using their accounts.

### **Termination of Registration**

Either party may terminate the term at any time.

The Company may, at any time and at its sole discretion, with or without notice, terminate your membership (or any part thereof), amend your nickname, delete your profile and any content or information that you have posted on the Website and / or prohibit you from using or accessing the Website or any portion, aspect or feature of the Website for any reason (including conduct that violates the Terms and Conditions of Use or other policies of the Company, conduct that is harmful to other Website users, harmful to the Company), or for no reason, including without limitation if it believes that you are under 13, or under 18 or abusing the Websites or their Services.

Additionally, either party may terminate the term immediately for any material breach by the other party of any term of these Terms and Conditions.

To end the Services or Opt-Out at any time, you will need to send an email to support@thunda.com with any of the words: **STOP, END, QUIT, CANCEL, REMOVE** . Your subscription will end on the last day of the month in which we receive the instruction to cancel.

### **Governing Law**

This Websites were created, are hosted, maintained and controlled in the Republic of South Africa and as such the laws of the Republic of South Africa and the jurisdiction of the South African Court govern these Terms and Conditions of Use and the use or inability to use the Websites.

### **Arbitration**

Disputes arising from the use of this website shall be referred to arbitration in terms of the Rules of Expedited Arbitration of the Arbitration of the Arbitration Foundation of Southern Africa (AFSA), where such Arbitration will take place in Cape Town, South Africa.

The User and the Company agree that, except as may otherwise be provided for in any specific terms applicable to specific services on the Websites, the sole and exclusive remedy

for any and all disputes relating to or arising out of use of the Websites, its Services, its Content or from these Terms and Conditions of Use, shall be final and binding arbitration, except to the extent that the Company or User has in any manner infringed upon or violated or threatened to infringe upon or violate the other party's patent, copyright, trademark or trade secret rights, or the User has violated any of the Terms and Conditions of then the parties acknowledge that arbitration is not an adequate remedy at law and that injunctive or other appropriate relief may be sought.

To the fullest extent permitted by governing law, no arbitration or claim under these Terms and Conditions of Use shall be joined to another arbitration or claim and no class arbitration shall be permitted. In no instance shall any claim, action or proceeding by the User related in any way to the Websites, or the Content or the Services (including your visit to or use of the Websites, or Content or Services) be instituted more than three (3) years after the cause of action arose.

With respect to any disputes or claims not subject to arbitration, you agree not to commence or prosecute any action in connection therewith other than in courts of Cape Town, South Africa.

#### **Proprietary Rights Owned by Us**

You acknowledge that we, or our suppliers, own all proprietary rights in the Websites and the Company Content including, but not limited to, any patents, trademarks, service marks and copyrights.

Copyright © 2009 Thunda Com (Pty) Ltd, 72 Canterbury Street, Zonnebloem, 8001. All rights reserved.

#### **Proprietary Rights Owned by You and Other Subscribers**

You represent and warrant to us that you will not upload any Content to the Website unless you are the owner of all proprietary rights in that Content and have obtained releases for all related privacy and publicity rights.

#### **Trademarks**

The Company's trademarks, domains and / or logo may not be used in any manner, either in whole or in part, including as part of trademarks and domains that may cause confusion.

#### **Intellectual Property Rights**

All the Company Content on the Website, including photographs, text, graphics, logos, icons, designs, colours, layout and trademarks are the intellectual property of the Company or licensed to the Company and its associates and as such are protected by South African and International Intellectual Property Law.

No content may be copied, edited, distributed, reproduced, published, transmitted, displayed, modified or sold in any form, by any means, in whole or in part, without the Company's prior written permission.

Unauthorized use of the Websites' content may violate applicable laws including copyright and trademark laws. Nothing in these Terms and Conditions of Use should be construed as conferring any licence to the Company's intellectual property rights, by estoppel, implication or otherwise.

### **Changes**

The Company reserves the right, at its sole discretion to make changes, modifications, additions or deletions to these Terms and Conditions of Use at any time without notice. If changes are made, the date of last revision will be updated at the top of this page. The continued use of the Websites after such changes constitute the Users' acceptance of the revised Terms and Conditions of Use. If Users do not agree to abide by these Terms and Conditions, they should stop using the Websites. It is the responsibility of Users to regularly check the Terms and Conditions of the Website to review any changes that may have been made.

### **Usage**

These Terms and Conditions of Use constitute the entire agreement between the User and the Company with respect to the use of the Websites, the Content and the Services and supersede any prior agreements between the User and the Company relating to the User's use of the Websites, Content or Services. The failure of the Company to exercise or enforce any right or provision of these Terms and Conditions of Use shall not constitute a waiver of such right or provision in that or in any other instance. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. If any provision of these Terms and Conditions of Use is deemed to be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.

### **User Waiver**

By viewing the Websites, Users may be exposed to Content that they consider to be offensive. Users take sole responsibility for such exposure.

### **Compliance With Law**

In using the Websites and Services, you agree that you will comply with all applicable laws.

### **Reporting Violations**

If you become aware of any User violating any of these Terms and Conditions of Use please notify the Company immediately.

If you believe that any User has posted material in violation of any copyrights that you may have, you may notify us in accordance with our Procedure for Making Claims of Copyright Infringement Notice. If you believe that any user of this Website has posted materials in violation of any other rights that you may have, you may report the User Content or notify us in terms of our Removal Policy. Please report any abuse of the Websites, the Content or Services to [abuse@thunda.com](mailto:abuse@thunda.com).

### **Assignments**

Users may not assign any of their rights herein. The Company may assign all rights to any other individual or entity at its discretion.

### **Standard of Conduct**

Users agree not to undertake any action or activity on the Websites which may in any way demean, damage, harm or defame a person or brand.

### **Removal Policy**

To have Company Content removed, please email [photos@thunda.com](mailto:photos@thunda.com) with a link to the photograph you would like removed.

To have User Content removed, please click on the report icon beneath it and the item will be removed from the Websites. Alternatively please report any abuse of the Websites, the Content or Services to [abuse@thunda.com](mailto:abuse@thunda.com)

### **Indemnity**

You agree to indemnify and hold the Company, its directors, officers, employees and representatives, harmless from any and all losses (including, but not limited to, attorney fees) resulting from any claims that you assert, or may assert, based on or relating to your use of this Website, or the use of this Website by any individual using your password.

You further agree to indemnify and hold us, and our directors, officers, employees and representatives, harmless from any and all losses resulting from claims of third parties, including, but not limited to, attorney fees, that result in whole or in part from violations by you, or any individual using your password, of any of the terms of these Terms and Conditions of Use.

### **Miscellaneous**

Force Majeure. We shall be not held liable for any delay or failure in performance of any part of this agreement from any cause beyond our control and without our fault or negligence, such as acts of God, acts of civil or military authority, current laws and regulations and changes thereto, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, acts of hackers and other illegal activities of third parties, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation or telecommunications common carriers or acts, omissions, overloading or slow downs over the internet or any third party internet service providers.

Survivability. The ownership and proprietary rights provisions set forth in these Terms and Conditions of Use, and any other provisions that by their sense and context the parties intend to have survive, shall survive the termination of this Agreement and any obligations hereunder for any reason.

Severability. The unenforceability or invalidity of any term, provision, section or subsection of these Terms and Conditions of Use shall not affect the validity or enforceability of any remaining terms, provisions, sections or subsections of these Terms and Conditions of Use, but such remaining terms, provisions, sections or subsections shall be interpreted and construed in such a manner as to carry out fully the intention of the parties hereto.

Interpretation. The fact of authorship by or at the behest of a party shall not affect the construction or interpretation of these Terms and Conditions of Use.

Amendments. No amendment or other change of these Terms and Conditions of Use shall be effective except as either expressly permitted under these Terms and Conditions of Use or agreed to in writing between the parties.

Entire Agreement. These Terms and Conditions of Use embody the entire agreement and understanding of the parties and supersedes all prior agreements, representations and understandings between the parties hereto relating to the subject matter hereof.

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