

eMJA PERSONAL ONLINE SUBSCRIPTION - TERMS AND CONDITIONS

The following terms and conditions (“**Terms**”) are a legally binding agreement between the Australasian Medical Publishing Company Pty Ltd ACN 000 005 854 (“**AMPCo**”, “**we**”, “**us**”, “**our**”) and the person (“**you**” or “**your**”, as the context may require) who wishes to have access to an On-line version of the Medical Journal of Australia (“**eMJA**”) published by AMPCo on the World Wide Web (“**WWW**”).

We and you agree that:

1. DURATION

1.1 These Terms commence on the date on which we receive payment in full for the Subscription Fee and continue in full force and effect for the duration of the Subscription Period unless terminated earlier in accordance with clause 7.

2. LICENCE

2.1 You agree to pay us the Subscription Fee in consideration for the supply of the Service subject to and in accordance with these Terms.

2.2 In consideration for the payment in full by you to us of the Subscription Fee, we grant you a non-exclusive, non-transferable licence to use the Service on and subject to these Terms.

3. ACCESS

3.1 You agree that:

- (a) your access and use of the Service shall be subject to and in accordance with:
 - (i) the Terms of Access and Use, that are available and displayed on the Website from time to time;
 - (ii) any legal notices displayed on the Website from time to time; and
 - (iii) these Terms; and
- (b) we may revise, replace or amend the Terms of Access and Use from time to time in our sole discretion.

3.2 If, for any reason whatsoever, payment of the Subscription Fee is not received in full and in cleared funds by us before you access or use the Service, we shall be entitled to suspend, revoke or cancel the licence granted under clause 2.1.

4. OWNERSHIP AND INTELLECTUAL PROPERTY

4.1 You acknowledge and agree that any and all Intellectual Property Rights, title and interest arising in and in relation to any and all documents, articles,

editions, works or other materials whatsoever accessed on the Website remains with or vests in AMPCo or third parties.

- 4.2 If AMPCo, or any person, makes available or introduces to you any of AMPCo's intellectual property then all Intellectual Property Rights relating to or associated with that intellectual property will remain the sole property of AMPCo.

5. PERMISSION TO USE CONTENT OR MATERIALS

The Medical Journal of Australia makes articles available on the World Wide Web for the advancement of public health and medical research.

- 5.1 Notwithstanding the restrictions on use of the Content referred to in clause 4 and subject to the terms of the licence granted to you under clause 2.1, you may make temporary electronic copies of the Content that are necessary to browse this Website and may download and print a single copy of an article from the Website for non-commercial personal use provided you do not remove any copyright or trade mark notices contained on or in the Material.

5.2 **Reproduction and Communication for educational purposes**

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5.3 **Reproduction and Communication for other purposes**

No further reproduction or distribution of the articles in whole or in part should proceed without the permission of the publisher.

To seek permission to reproduce multiple copies of an MJA article, send an email to [mjalibrary at ampco dotcom dotau](mailto:mjalibrary@ampco.com.au) Australasian Medical Publishing Company. **Your email must tell us:**

The author, title, year of publication, volume and page numbers of the article you wish to reproduce.

The purpose for which you wish to reproduce the article.

The number of copies you wish to reproduce.

The amount of money, if any, that you will be charging for these copies or for the publication within which the copied article will be appearing.

- 5.4 If you wish to use the Content for any other purpose you must first purchase a license from AMPCo that permits that form of use.

5.5 In this clause 5 non-commercial use means use that is not for monetary reward and use for monetary reward includes, without limitation, use for sale, resale, loan, transfer, hire or other form of commercial use.

6. WARRANTY AND LIABILITY

6.1 To the fullest extent permitted by law:

- (a) the documents, articles, publications and any other materials whatsoever appearing on the Website are provided on an “as is” basis without warranty of any kind, express or implied;
- (b) we exclude all conditions and warranties relating to the Service or the Website; and
- (c) we do not warrant or guarantee the accuracy, completeness, merchantability, or fitness for purpose of the Service, the Website or any materials, articles, publications or documents on the Website.

6.2 Without limiting the generality of clause 5.1, we do not make any representations or warranties that the Service will be uninterrupted or error free.

6.3 To the extent that our liability for breach of any implied warranty or conditions cannot be excluded by law our liability will be limited, at our sole discretion, to:

- (a) in the case of services supplied or offered by us, the re-supply of those services or the payment of the cost of having those services resupplied;
or
- (b) in the case of goods supplied or offered by us, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of having the goods replaced or the payment of the cost of having the goods repaired.

6.4 In no circumstances will we be liable to you for any indirect, incidental, special or consequential losses or damages including, without limitation, loss of profits, loss of goodwill, loss of data or loss of opportunity. To the fullest extent permitted by law our liability to you for goods or services supplied by us to you shall be the lesser of the amount determined under clause 5.3 or the aggregate amounts paid by you in respect of those goods or services to us.

7. INDEMNITY

7.1 You agree to immediately indemnify and keep indemnified AMPCo against any expenses, costs, loss or damage that we may suffer or incur as a result of or in connection with:

- (a) your use of or access to the Service or the Website;

- (b) your breach of these Terms; and
- (c) your actions, omissions, negligence or misconduct.

8. PRIVACY

- 8.1 You agree that we may disclose personal information that you provide to us to:
- (a) the Australian Medical Association Limited; and
 - (b) our business associates.
- 8.2 You agree that we may collect, use and disclose the personal information that you provide to us for the following purposes:
- (a) to enable us to perform our obligations under these Terms;
 - (b) to recovery any money owing to us; and
 - (c) to provide, or arrange for a third party to provide, you with information regarding goods or services that we believe may be of interest to you.
- 8.3 Any personal information, including personal financial information, that relates to you and is collected, used or disclosed by us will be only be collected, used or disclosed:
- (a) in accordance with these Terms or the terms displayed on the Website, if any; and
 - (b) in accordance with our Privacy Policy, if any, as varied by us in our sole discretion from time to time,

in compliance with the requirements of the Privacy Act 1988 (Cth).

9. TERMINATION

- 9.1 We may immediately terminate these Terms if:
- (a) you fail or refuse to make, or AMPCo does not receive in full and in cleared funds, any payment of the Subscription Fee or any part of the Subscription Fee; or
 - (b) you breach any term or condition of these Terms and fail to remedy such breach to our satisfaction within seven (7) days of notification from us.
- 9.2 On termination of these Terms:
- (a) the licence granted under clause 2.2 is immediately revoked;
 - (b) you must not access or attempt to access the Subscribers' Section of the Website; and

(c) we may immediately deny you access to the Subscribers' Section of the Website, or any other part of the Website, at our sole discretion.

9.3 Any termination of the licence granted under these Terms shall not affect any accrued rights or liabilities of either party, nor shall it affect any provision of these Terms, which is expressly or by implication intended to continue in force after such termination.

10. GENERAL

10.1 These Terms supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the Service.

10.2 You must not assign, whether in whole or part, the benefit of these Terms or any rights or obligations hereunder, without the prior written consent of AMPCo.

10.3 These Terms shall be governed by and construed in accordance with the laws for the time being in force in the State of New South Wales, Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts and tribunals of that State.

10.4 No forbearance, delay or indulgence by a party in enforcing the provisions of these Terms shall prejudice or restrict the rights of that party, nor shall any waiver or those rights operate as a waiver of any subsequent breach.

10.5 Should any part of these Terms be or become invalid or unenforceable, that part shall be severed from these Terms. Such invalidity or unenforceability shall not affect the validity of the remaining provisions of the Agreement.

11. DEFINITIONS

11.1 In these Terms:

“Intellectual Property Rights” means any intellectual property and industrial property rights of AMPCo throughout the world including rights in respect of or in connection with any copyright (including future copyright and rights in the nature of or analogous to copyright), inventions (including patents), designs, and circuit layouts whether or not now existing and whether or not registered or registrable and includes any right to apply for the registration of such rights and includes all renewals and extensions and any other intellectual property rights as defined in Article 2 of the World Intellectual Property Organisation Convention of 1967;

“On-line access” means accessible by means of an Internet portal or link;
“Service” means the provision by AMPCo, on your payment in full of the Subscription Fee, of On-line access to part of the eMJA in electronic format including access to the part or parts of the Subscribers' Section of the Website for which the Subscription Fee has been paid to AMPCo;

“Subscribers’ Section” has the meaning given to that expression in the Terms of Access and Use;

“Subscription Period” means the period for which you have paid the relevant Subscription Fee;

“Subscription Fee” means the aggregate value of the subscription to eMJA that you select from the subscription price guide for the Medical Journal of Australia that we publish, from time to time, on the Website that may vary depending on the time period for which you wish to access the Service or on the number of editions of the eMJA you wish to access using the Service, as the case may be;

“Terms of Access and Use” means the terms and conditions, published by or on behalf of and at the sole discretion of AMPCo, from time to time, on which you may access and use the Website; and

“Website” means the eMJA website, the eMJA Shop website and the website of the Medical Journal of Australia on the WWW.

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