



ABN 27 161 437 752

PO Box 3317, Mentone East VIC 3194

p: 1300 692 677 (1300 MYCO SP)

f: +61 3 8669 4366

e: enquiries@mycosports.com.au



## **CLICKWRAP LICENCE AGREEMENT FOR SERVICES, SOFTWARE AND WEBSITE USAGE**

### **Warning**

Permission to use and access the Software, the Services and the Website is conditional upon you, the customer, agreeing to the terms set out below. The use and access of the Software, the Services and the Website is only offered to you on condition that you read and accept all the terms of this licence and wish to become a licensee to use and access the Software, the Services or the Website.

Acceptance will bind you and all of your employees to the terms of the licence. By clicking "I Accept" at the end of these terms and conditions, you will be deemed to have accepted the following terms. If you do not wish to accept the terms, you must not click "I Accept" and you may not use any of the Software, the Services or the Website.

### **1. Definitions**

In this agreement the following words have the following meaning:

"Licensor" means Myco Sports Pty Ltd ACN 161 437 752.

"Licence Fee" means the fee indicated on the website as the one-off License Fee.

"Renewal Fee" means the fee indicated on the website as the Annual Renewal Fee.

"Software" means any software owned, hosted by, developed by or for The Licensor.

"Services" means the services provided by The Licensor for the hosting and organising of sports events and the storing of data associated with those sports events.

"Term" means a period of twelve (12) months.

"Website" means any website owned, hosted, administered or operated by The Licensor, its agents or subcontractors.

### **2. Licence**

2.1 Pursuant to this licence, the licensee acquires a non-exclusive right to:

- a) use and access the Software, the Services and the Website on the terms and conditions set out in this document; and
- b) use and access the Software, the Services and the Website strictly in accordance with the provisions of this licence.

2.2 The licensee may not make or attempt to make any back-up copy or copy of the Software, the Services or the Website. If the licensee wishes to use and access the Software, the Services or the Website on more than one computer at the same time it may apply for an additional licence and account from the Licensor.

2.3 The Licensee may apply for a renewal of the licence and will be granted a renewal of the licence on the same terms as set out in this document, as amended from time to time upon payment of the Renewal Fee, unless there are continuing un-remedied breaches of the licence or there have been persistent breaches of this licence.

### **3. Licence fee**

The licensee is not entitled to use the Software, the Services and the Website until the licence fee has been paid. In the case of payment by cheque, payment will not be deemed until the cheque has been cleared. A separate and additional fee is payable in the circumstances described in clause 2.2-2.3.

### **4. Documentation**

This licence extends to any accompanying documentation. The documentation may not be copied, modified or used in any way not contemplated or expressly authorised by this agreement.

### **5. Licensee's obligations**

The licensee hereby undertakes the following obligations:

- a) to not copy, reproduce, translate, adapt, vary or modify the Software, the Services or the Website without the express consent of The Licensor except as expressly authorised by this agreement or Part III Division 4A of the Copyright Act 1968 (Cth);
- b) to not modify, adapt, translate or reverse engineer any portion of the Software, the Services or the Website.
- c) to supervise and control the use of the Software, the Services and the Website in accordance with the terms of this licence;
- d) to ensure its employees, subcontractors and other agents who have authorised access to the Software, the Services and the Website are made aware of the terms of this licence;



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- e) to not provide or otherwise make available the Software, the Services and the Website in any form to any person other than those referred to in paragraph (d) without the written consent of The Licensor;
- f) to not use the Software, the Services and the Website for or in connection with a service bureau operation.
- g) to not use any of the Software, the Services and the Website for any purpose that is unlawful or prohibited by this licence, its terms and conditions or any other law or statute.
- h) to not use any of the Software, the Services and the Website in any manner that could damage, disable, overburden, or impair The Licensor, or the network(s) connected to any The Licensor server, or interfere with any other party's use and enjoyment of the Software, the Services and the Website.
- i) to not attempt to gain unauthorized access to any computer systems or networks connected to any of the Software, the Services and the Website or any server used by the Software, the Services and the Website, through any unauthorized means.
- j) to not attempt obtain any materials or information through any means not intentionally made available through the Software, the Services and the Website.
- k) to not use the Software, the Services and the Website to defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- l) to not use the Software, the Services and the Website to publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, material or information.
- m) to not upload or incorporate into the Software, the Services and the Website in any way, any malicious software or code.
- n) to not create any false identity or use the Software, the Services and the Website to harvest personal information of any other user of the Software, the Services and the Website for any purpose.
- o) If any of the Software, the Services and the Website requires you to open an account, you must provide the Licensor with current, complete and accurate information as prompted by the applicable registration form.
- p) If you are given or you choose a password and username for an account, you are entirely responsible for maintaining the confidentiality of any password and username.
- q) You agree to notify The Licensor immediately of any unauthorized use of your account or any other breach of security.
- r) The Licensor will not be liable for any loss that you may incur as a result of someone else using your password or account, either with or without your knowledge.
- s) If you are under 18 years of age, then you must obtain your parent or guardian's consent before accessing and using the Software, the Services or the Website.
- t) You are responsible for any costs associated with your access to or use of the Software, the Services and the Website, including Internet access fees.
- u) The Licensee must not create or permit to exist a security interest over any of the licensed Software, Services or Website or Documentation or in any modifications to, or enhancements updates or new releases of the licensed Software, Services or Website or Documentation. For the purposes of the foregoing, "security interest" means a security interest that is subject to the Personal Property Securities Act 2009 (Cth) or any other mortgage, pledge, lien, charge or other arrangement of any kind which in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors.

## 6. Updates and New Releases

- 6.1 The Licensor is under no obligation under this Agreement to provide updates or new releases.
- 6.2 Where an update to the Software, the Services or the Website or a new release is provided, the charge for use of the new release will be no higher in respect of the then current term than the then current Licence Fee.
- 6.3 This Agreement will continue to apply in all respects to the update to the Software, the Services or the Website or a new release which shall be deemed to be the Software, the Services or the Website for the purpose of this Agreement.
- 6.4 The Licensee shall return to the Licensor all copies of the original Licensed Software or otherwise deal with all copies of the original Licensed software in the manner directed by The Licensor.



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## 7. Warranty

- 7.1 The licensee acknowledges that the Software, the Services and the Website cannot be guaranteed error free and further acknowledges that the existence of any such errors shall not constitute a breach of this agreement.
- 7.2 Notwithstanding the preceding subclause. The Licensor warrants that the Software, the Services and the Website are free from defects in manufacture and that the Software, the Services and the Website will in all material respects perform in accordance with any documentation supplied.
- 7.3 The Licensor will not be liable for any indirect or consequential damages arising out of a breach of this agreement or arising out of the supply of defective Software, Services or Website.
- 7.4 Nothing in this agreement excludes, restricts or modifies any condition, warranty, right or liability implied in this agreement or protected by law to the extent that such exclusion, restriction or modification would render this agreement or any provision of this agreement void, illegal or unenforceable. Subject to that, any condition, warranty, right or liability which would otherwise be implied in this agreement or protected by law is excluded.
- 7.5 The licensee acknowledges that:
- a) prior to entering into this agreement it has been given a reasonable opportunity to examine and satisfy itself regarding all goods and services which are the subject of this agreement and that prior to entering into this agreement it has availed itself of that opportunity;
  - b) at no time prior to entering into this agreement has it relied on the skill or judgment of The Licensor and that it would be unreasonable for the licensee to rely on any such skill or judgment; and
  - c) where any acquisition of goods under this agreement has been made by reference to a sample or demonstration model, prior to entering into this agreement the licensee has been given a reasonable opportunity:
    - (i) to satisfy itself that the goods correspond with the sample or demonstration model as to quality, state and condition; and
    - (ii) to examine the sample or demonstration model for any apparent defects, and that it has availed itself of that opportunity.
- 7.6 The application of the United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention) to this agreement (by virtue of any law relevant to this agreement) is excluded.
- 7.7 Pursuant to s 64A of the Australian Consumer Law (under the Competition and Consumer Act 2010 (Cth)):
- a) this sub-clause applies in respect of any of the goods or services supplied under this agreement which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, provided that this sub-clause will not apply if the licensee establishes that reliance on it would not be fair and reasonable;
  - b) liability for breach of a guarantee conferred by the Australian Consumer Law (under the Competition and Consumer Act 2010 (Cth)), other than those conferred by ss 51 -53 of that Law, is limited:
    - (i) in the case of goods, to any one of the following as determined by The Licensor:
      - (I) the replacement of the goods or the supply of equivalent goods; or
      - (II) the repair of the goods; or
      - (III) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
      - (IV) the payment of the cost of having the goods repaired;
    - (ii) in the case of services, to any one of the following as determined by The Licensor:
      - (I) the supplying of the services again; or
      - (II) the payment of the cost of having the services supplied again.

## 8. Copyright

- 8.1 The licensee acknowledges that the Software, the Services, the Website and any associated documentation are the subject of copyright. The licensee will not during or any time after the expiry or termination of this licence permit any act which infringes that copyright and, without limiting the generality of the foregoing, the licensee specifically acknowledges that it may not copy the Software, the Services, or Website except as otherwise expressly authorised or acknowledged by this agreement.
- 8.2 The licensee will indemnify The Licensor fully against all liabilities, costs and expenses which The Licensor may incur to a third party as a result of the licensee's breach of the copyright provisions of this licence.



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## 9. Term of licence

- 9.1 This licence commences upon payment of the Licence Fee and is granted for the duration of the Term, but may be terminated in the following circumstances:
- a) if the licensee is in breach of any term of this agreement;
  - b) if the licensee, being a corporation, becomes the subject of insolvency proceedings;
  - c) if the licensee, being a firm or partnership, is dissolved;
  - d) if the licensee becomes the subject of bankruptcy proceedings;
  - e) If the licensee destroys the program and documentation for any reason
- 9.2 Upon termination, the licensee or its representative will destroy any remaining copies of the Software, the Services or the Website it may possess and documentation or otherwise return or dispose of such material in the manner directed by The Licensor.
- 9.3 Upon termination, the licensee will have any access to the Software, the Services or the Website revoked.
- 9.4 Termination pursuant this clause will not affect any rights or remedies which The Licensor otherwise has under this licence or at law.

## 10. Assignment

The benefit of this agreement will not be dealt with in any way by the licensee (whether by assignment, sub-licensing or otherwise) without the Licensor's written consent.

## 11. Waiver

Failure or neglect by either party to enforce at any time any part of the provisions of this agreement will not be construed or deemed to be a waiver of that party's rights under this licence.

## 12. Amendment

The Licensor may amend the terms of this licence from time to time without the consent or agreement of the licensee, as required by the Licensor and will publish updated versions on the Website.

## 13. Governing law

This licence will be governed and construed according to the law of the state of Victoria, Australia.

"I ACCEPT" [\[click here\]](#)

("the Licensor")

- and -

("the Licensee")

## CLICKWARP LICENCE AGREEMENT FOR SOFTWARE, SERVICES AND WEBSITE USAGE

McDonald Slater & Lay  
Barristers & Solicitors  
136 Balcombe Road Mentone VIC 3194  
DX 19403 Mentone  
Tel. 03 9583 6263 Fax. 03 9583 9839  
Ref. IS:ST:46377