

GameDay Events

1.0 Terms and Conditions

GameDay Events provide You with a secure robust and attractive platform to manage Your event registration and sales and requires no web development or content management system (CMS) skills for You to manage. GameDay Events is available in three subscription tiers ("Tiers") to suit a range of budgets and needs. Every subscription includes as a minimum, complete self-help guides. Higher level Tiers include help to set up Your event, more advanced reporting, and host a features useful to major events providers.

2.0 Agreement

- 2.1 We, Stack Sports Australia Pty Limited ("We" or "Stack") agree to provide to You, our customer ("You") with a GameDay Events subscription on the following terms (these "Terms").
- 2.2 The Subscription
 - 2.2.1 We grant You a non-exclusive, non-assignable license to use GameDay Events (hereafter "the Subscription") on and subject to these Terms. No rights are sold or assigned under these Terms.
 - 2.2.2 We will provide You with the Subscription with due care and skill, together with such other services as We and You may agree from time to time. We may engage third party service providers to supply necessary infrastructure, connectivity or other services in relation to the Subscription.
 - 2.2.3 You agree to provide all content, logos, updates and information for the Subscription, on a timely basis; and You grant Stack a limited, non-exclusive, royalty free right to use that content solely for providing the Subscription. You are responsible for managing and keeping up to date all content You provide.
 - 2.2.4 The Subscription will be branded with the names and logos You provide, and You warrant that You have permission to use such names and logos. Stack will not use the logos or other trademarks without consent (such consent not to be unreasonably withheld). "Powered by Stack" or similar will appear on the Subscription.
- 2.3 Where included in Your Subscription Tier, Stack retains the right to place online advertising on the Subscription, using up to ten percent of the available online space, but where You provide prior notice of any categories or advertisers to be excluded from our advertising, due to Your reasonable sponsorship or advertising exclusivity commitments, we will give our best efforts to respect those limitations.
- 2.4 Stack may in its absolute discretion remove any content from the Subscription where it has a concern that the content breaches any third party's rights or any law.
- 2.5 The Subscription commences on the date of purchase and continues for an initial term of one year (the "Initial Term"). During the Initial Term either party may give notice that the Subscription is to conclude at the end of the Initial Term, but if neither party gives that notice, the Subscription is extended upon the then current Terms.
- 2.6 By using the Subscription, You signify Your consent to these Terms, and You acknowledge You have read and consent to our Privacy Policy. You may not use the Subscription if You do not so consent. We may modify the Terms from time to time, provided we give You 90 days' notice.

3.0 Your Obligations

- 3.1 You agree to:
 - 3.1.1 Comply with all applicable laws which govern Your use of the Subscription (and any related transaction), including laws specific to You or Your users in any of Your





locations.

- 3.1.2 Be solely responsible and liable with respect to any use of the Subscription by You or Your users, including for any content, including consequences of accessing, importing, uploading, copying, using or publishing such content.
 - 3.1.3 Regularly and independently backup Your content and information being processed by You or Your users.
 - 3.1.4 Receive promotional messages and materials from Stack from time to time, unless You choose to opt out of such communication.
 - 3.1.5 Allow Stack to use the Subscription in perpetuity and free of charge for marketing and promotional purposes, including reasonable modifications, and You waive any claim You may otherwise have with respect to such permitted use, save that any use by us shall be subject to our Privacy Policy including as to the publication and display of information or advertising via the Subscription.
- 3.2 You agree that failure by You to abide by any of these Terms may result in the immediate suspension or termination of Your Subscription.

4.0 Privacy

- 4.1 The Subscription requires the submission, collection and use of personally identifying or identifiable information; We may collect, access and use certain data pertaining to Your users; such use is at all times subject to our Privacy Policy.

5.0 Fees, Renewals, Taxes and Charges

- 5.1 The Subscription is subject to payment by You of the set up and ongoing fees (hereafter "Fees") and other charges included in Your Subscription Tier which are subject to the following conditions:
 - 5.1.1 We have the right on 90 days' notice to change the Fee or to alter any restrictions or conditions on Your use of the Subscription (such as traffic, downloads, volumes etc), under these Terms.
 - 5.1.2 Where You received an initial Fee discount or other promotional offer, We have the right to automatically without notice, renew the Subscription at the full Fee.
 - 5.1.3 You agree the Fee shall automatically renew in accordance with the renewal of the Subscription, above.
 - 5.1.4 Your use of third-party add-on services You choose under Your Subscription Tier may incur additional costs or Fees and You are responsible for payment of all such amounts including where we have paid the amount on Your behalf.
- 5.2 Fees, unless otherwise stated, are quoted in Australian dollars and are exclusive of any consumption, VAT, GST, financial transactions impost or other tax, fee or levy imposed by any Government anywhere in the world ("Government Tax"). If any Government Tax is applied to Fees, or any services or supply made or in connection with the Subscription, then the Fees shall be increased to include the amount of any Government Tax.
- 5.3 Where You use the Subscription for online sales or payment processing, You agree that, with respect to every sale or payment processed:
 - 5.3.1 You are responsible for providing an invoice to the payer;
 - 5.3.2 all funds will initially be deposited into a bank account managed by Stack;
 - 5.3.3 reversal of credit card charges by the credit card provider (due to fraud or other misuse), refunds, remittance costs, and other deductions will be borne by You;
 - 5.3.4 Stack will give You a weekly transaction report of funds deposited, deductions, and any Fees;
 - 5.3.5 unless otherwise agreed by You, Stack will transfer You the balance of funds deposited, on a weekly basis (excluding the week of Christmas and New Year), and except for

funds deposited for auctions, which will be transferred on a monthly basis; and
5.3.6 balance of funds will be transferred to the bank details You specify in the EFT Application.

5.4 You hereby authorise Stack (or its agents) to request and collect payment (or otherwise charge, refund or take any other billing actions) via Your credit card or designated bank account, and to make any inquiries We consider necessary to validate Your credit card or bank account information, including receiving updated payment details.

5.5 In the event of a failure to process on Your credit card or bank account, We may in our discretion (but are not obligated to) reattempt to process at a later time. If an attempt fails a second time we will attempt to contact You but any failure may result in suspension or cancellation of Your Subscription, without further notice.

6.0 Money-Back Guarantee

6.1 If You are not satisfied with the Subscription, You may provide notice of cancellation for any reason within 30 days of first ordering the Subscription (the "Refund Period") and Stack will issue a refund. The Refund Period only applies to the initial purchase, and not to additional purchases, upgrades, modification or renewals. Please note that any refund may be different to the amount initially charged due to currency exchange or payment processing costs.

7.0 Loss of Data, Content and Capacity

7.1 In the event the Subscription is ended, suspended or cancelled, there may result in a loss of content, features, or capacity including any content, user data or other information, or domain name reservation or registration (hereafter "Capacity Loss"). Stack is not responsible for any Capacity Loss, or for saving or backing up Your content.

8.0 E-Commerce functionality

8.1 Where the Subscription includes ecommerce functionality, the following additional terms apply:

8.1.1 Stack does not review Your stores or offerings, has no control over these, and is not responsible for the content or the outcomes of any offer or sale.

8.1.2 We do not endorse any items or represent their description, labelling or merchantability.

8.1.3 You are solely and responsible for Your items, including any harm resulting from them or Your conduct.

8.1.4 We are not a party to, and have no responsibility for, communications, transactions, interactions, or disputes between You and Your suppliers or buyers.

9.0 Rights of the parties

9.1 The parties are independent. Nothing in these Terms creates a joint venture, partnership or agency relationship between us, and neither party will represent itself as the joint venture, partner or agent of the other.

9.2 You exclusively own and retain all right, title and interest in the data generated by users of the Subscription, subject only to their rights and privacy.

9.3 Stack exclusively owns and retains all right, title and interest in the Subscription (including but not limited to copyright, trademark, patent, trade secret, or other proprietary right in all materials, including software object code and source code, aggregate data or information created by Stack, and any know-how, methods, equipment or processes used by Stack.

9.4 You agree that for the duration of the Subscription You will not obtain services or license any platform similar to the Platform from any other party, without Stack's consent, which consent may be conditional on Stack continuing to receive its Fee.



- 9.5 You may not assign, or sub-licence or otherwise deal with Your rights to the Subscription without Stack's consent.
- 9.6 Stack may periodically update, modify, change, upgrade or transfer to different infrastructure or operating software, the Subscription, in its sole discretion, subject to the reasonable protection and preservation of all of Your right, title and interest in the data generated by users of the Subscription, and subject to their rights and privacy.
- 9.7 Each party warrants that it has the power to enter into this agreement; and it has not entered into any other agreement, arrangement or understanding, legally enforceable or not, which prevents, restricts or inhibits its ability to meet its obligations under these Terms.

10.0 Termination and Force Majeure

- 10.1 A party may terminate the Subscription if the other party is subject to an "Insolvency Event" or breaches a material term of these Terms and fails, subject to paragraph 10.2, to remedy the breach within 14 days of receiving notice specifying the breach from the other party. "Insolvency Event" means appointment of a provisional or otherwise liquidator, manager, receiver, administrator or other like person; or a compromise, arrangement, merger, amalgamation reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency or other similar procedure.
- 10.2 Neither party is liable for a delay or failure to perform its obligations if it is due to a Force Majeure and the performance of a party's obligations will be suspended until such time as the Force Majeure is no longer in material effect. But if that delay or failure due to a Force Majeure exceeds 40 business days, a party may terminate the Subscription immediately on providing notice to the other. "Force Majeure" means a circumstance beyond the reasonable control of a party including but not limited to (i) act of god, lightning strike, earthquake, flood, storm, explosion, fire or natural disaster; (ii) technical or power failure; software, hardware, telecommunication or other network failure; interruption, disruption or malfunction (whether arising from excessive demand, virus or otherwise); (iii) act of war, act of public enemy, terrorism, riot, civil commotion, malicious damage, sabotage or revolution; or (iv) industrial action or strike.

11.0 Protection and limitation of liability

- 11.1 You acknowledge that Stack has no control over, and accepts no responsibility for, third-party content passing through the Subscription or associated systems, network hubs or points of presence, or internet in connection with the Subscription; the Subscription is provided 'as is' and, except as contained here, Stack does not make any representation or warranty of any kind, express or implied, with respect to the performance of the Subscription or related services, including, but not limited to, any implied warranty of merchantability, fitness for purpose, or non-infringement, nor implied warranty arising by usage of trade, course of dealing or course of performance, nor of the Platform being uninterrupted, always accessible, free of harmful components, accurate or error-free.
- 11.2 Each party indemnifies and must keep indemnified the other party against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against the indemnified party or which the indemnified party may pay, sustain or incur as a direct or indirect result of (i) any breach or non-performance of these Terms by the indemnifying party; or (ii) any wrongful, wilful or negligent act or omission of the indemnifying party or any of its employees, agents or contractors.
- 11.3 Subject only to subject to paragraph 10.2, but otherwise notwithstanding any other provision of these Terms:
- 11.3.1 neither party shall have any liability to the other in contract, tort (including negligence)



or otherwise for loss of goodwill, business, revenue, profit or anticipated savings (whether foreseeable or not) nor for any indirect, incidental, special, exemplary or consequential loss or damages of the other party whatsoever arising out of the performance, non-performance, breach or otherwise of these Terms (including but not limited to any loss of data); and

11.3.2 the maximum liability of Stack in contract, tort (including negligence) or otherwise in relation to the Subscription shall be limited to the total Fee paid to Stack under these Terms in the 12 months prior to the claim arising; and

11.3.3 this limitation applies to all causes of action in the aggregate, including but not limited to, breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts, except that the provisions of clause 25 shall be read and construed and shall have effect subject to any limitation imposed by any applicable law, and will not serve to limit or exclude liability for death or personal injury resulting from negligence; or liability for fraud or any other liability which it is not lawfully permitted to exclude or limit.

11.4 This Agreement is subject to the laws of the State of Victoria and Commonwealth of Australia and the parties submit to the non-exclusive jurisdiction of those courts.

