

SERVICES AGREEMENT

Terms and conditions on which Race Explorer provides services to consumers

Race Explorer provides services on the following terms and conditions.

1. The meaning of some words used in these terms and conditions

We, us or **our** is a reference to Race Explorer;

You or **your** is a reference to the person to whom we are providing our Services and who is required to pay for the Services we provide;

Parties is a reference to both us and you;

Services means the provision of a Race Explorer analytics dashboard for your event(s). The precise Services we will be providing to you will be stated in this Service Agreement as we agree in writing from time to time.

Race Data means the lists, databases and reports you provide us containing your event's participant details and their results.

RACE EXPLORER means the base Race Explorer service consisting of the provision of a race analytics dashboard on the Race Explorer website. It includes an interactive race map with race participants represented by icons and ordered by finishing time. It includes charts showing category participation where categories exist. It includes a scrollable results table. It includes the provision of your logo where this has been provided.

RACE EXPLORER EDGE means the enhanced Race Explorer service consisting of the features of RACE EXPLORER customized to the brand colors of your event. It provides for participant icon selection from our collection. On request it provides for embed code to feature the service on your own website. It does not include technical support for embedding the Race Explorer service on your own website.

RACE EXPLORER SERIES means the Race Explorer service where we agree in writing to provide race analytics dashboards with an agreed set of features over a set period of time or set number of events.

2. Entering into a legally binding contract

(a) A contract between you and us will come into being in one of two ways:

- (i) When you purchase a Race Explorer service on the Race Explorer website.
 - (ii) Where you and we agree orally that we should provide the Services then there will be a legally binding contract on the date of our oral agreement.
- (b) We suggest that before you purchase a Race Explorer service or orally agree to us providing Services that you read through this Service Agreement. If you have any questions concerning them please ask us.
- (c) You should keep a copy of this Service Agreement for your records.

3. Providing the Services

- (a) Our aim is to always provide you with the Services:
- (i) using reasonable care and skill;
 - (ii) in compliance with commonly accepted practices and standards in information services; and
 - (iii) in compliance with Victoria, Australia laws and regulations in force at the time we are carrying out the Services.
- (b) Our Services are dependent on the ongoing provision of the third party Tableau Public service (public.tableau.com). The use of Tableau Software is governed by the Tableau Software Terms of Service, currently available at <https://www.tableau.com/tos>.
- (c) We reserve the right to alter or withdraw these Services at any time. The Race Explorer analytics dashboard we provide to you may vary from others viewable on our website.
- (i) **RACE EXPLORER.** This Service includes provision of a race analytics dashboard on the Race Explorer website. It includes an interactive race map where competitors are represented by icons and ordered by finishing time. It includes charts showing category participation and pace by category, where these charts are relevant to your event. It includes a scrollable results table. It includes the provision of your logo where this has been provided.
 - (ii) **RACE EXPLORER EDGE.** This Service includes all of the features of RACE EXPLORER and is additionally customized to the colours of your event. We will provide up to 3 revisions of the customization for your approval. You may provide us with event photos to include on the upper left hand corner of the dashboard. You may choose from our collection of icons to represent your participants on the interactive race map. On request we will provide you with the embed code to feature the dashboard on your own website,

however we do not provide technical support to embed the dashboard or any guarantees as to the dashboard's correct functionality on your site.

- (iii) RACE EXPLORER SERIES. This Service is where we provide a race analytics dashboard for more than one event over an agreed period of time. It includes the features of both RACE EXPLORER and RACE EXPLORER EDGE. It includes the provision of a sponsor logo at the top of the dashboard.
- (d) We will endeavour to provide access to the Service for a period of 1 year after the conclusion of the event. In situations outside of our control, such as the provision of third-party services, we may not be able to provide the Service for this period. In the event we provide the Service for a period of 2 weeks from the conclusion of the event, no refund will apply.
- (e) You agree that the Service may not be compatible with all device formats and browsers.

4. Race Data

- (a) By providing us with Race Data you grant to Race Explorer a worldwide, royalty-free and non-exclusive, perpetual, irrevocable and fully sublicensable license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Race Data (in whole or in part) and to incorporate such Race Data into other works in any format or medium now known or later developed.
- (b) Additionally, with respect to Race Data you provide, you represent and warrant that:
 - (i) You have the right to grant such license and make such Race Data available to Race Explorer, including users of the Service;
 - (ii) none of the Race Data you provide contains any data or information that is confidential, non-public, owned by or otherwise proprietary to a third party, not in the public domain or otherwise restricted or protected from use by any individual, entity or other party for any use by a third party; and
 - (iii) neither the delivery to nor use by Race Explorer, including users of the Service, of such content shall violate or infringe the rights of any third party.

5. Timing

5.1. Our responsibility to perform the Services by particular dates

We aim but do not guarantee to carry out the Services by the dates and times we either agree with you or within 24 hours of the event completion time. Our ability to

provide the Services by the agreed time is conditional upon:

- (a) you providing sample participant results data at least 14 days prior to the event start date.
- (b) you reviewing and accepting any prototypes of the analytics dashboard at least 5 days prior to the event start date.
- (c) you providing accurate, complete, and authorized participant results data in the identical format to the sample data within 6 hours of the event completion time.

5.2. What can happen if we cannot start performing the Services or complete performing the Services

- (a) Subject to 5.1, if we do not start or complete performing the Services within a reasonable period from the date(s) we have agreed or notified then you may either:
 - (i) choose to continue to wait until we can start performing the Services or complete performing them; or
 - (ii) terminate the contract.
- (b) If you have made payment(s) to us we will return the difference to you within 7 days of the termination.

5.3. Situations or events outside our reasonable control

- (a) In addition, there are certain situations or events which occur which are not within our reasonable control (some examples are given in paragraph (b), directly below). Where one of these occurs we will normally attempt to recommence performing the Services as soon as the situation which has stopped us performing the Services has been resolved. In such circumstances there may be a delay (sometimes a substantial delay) before we can start or continue performing the Services.
- (b) The following are examples of events or situations which are not within our reasonable control:
 - (i) where you make modifications to the Race Data and this results in us having to do further work;
 - (ii) where we have to wait for other providers of services (who have been engaged by you) to complete their work before we are able to perform the Services (or the relevant part of the Services dependent on the other provider if ordered at short notice);
 - (iii) for other some unforeseen or unavoidable event or situation which

is beyond our control, such as the availability of our webpage or the Tableau Public third party service, for which we rely upon.

6. Price, estimates and payment

6.1. When payment is required

Payment for our Services is normally made in two ways, either:

- (a) for single events, 100% upfront before the commencement of the Services;
or
- (b) for more than 1 event (e.g. an event series):
 - (i) 50% upfront payment before the commencement of the first event.
 - (ii) 50% payment when more than half of the events in the series have concluded.

6.2. GST

All amounts stated (whether orally or in writing) are exclusive of GST.

6.3. If you do not pay when required to

If you fail to make payment by the date or time we and you agree, we may:

- (a) charge you interest (at an interest rate of 5%) on any outstanding amounts if those outstanding amounts remain unpaid for more than 14 days from the date of our invoice or when we asked you first to pay them; and/or
- (b) if the amounts not paid represent more than 25% of the total value of the Services we are to perform for you, and there remain some Services which we have not yet performed, then we may suspend performing the remaining Services until you make payment.

6.4. Where you seek to not pay amounts due to us

You will not refuse to pay any amount owing to us where there is only a minor or inconsequential defect or error in the performance of the Services. You will be entitled only to refuse to pay no more than a proportionate amount of any amount due.

7. Exclusion and limitation of liability

- (a) We do not exclude or limit liability for our negligence or negligent omission which causes you personal injury or death.
- (b) We shall only be liable for any loss or damage suffered by you which is a reasonably foreseeable consequence of a breach by us of this contract. In the

event that any loss or damage suffered by you relates to your business activities then we exclude all liability for any business loss and in particular we exclude all liability for loss of profits or other economic loss arising out of a breach of this contract.

8. Communicating with us

- (a) You can always telephone (our contact numbers are +61410097690).
- (b) However, for important matters we suggest that you use writing and send any communications by post to 2 Gittings Lane, BUNINYONG, Victoria, Australia, 3357 (although we do accept e-mails).

9. Termination of contract by you

- (a) Once we and you enter into a binding contract you will normally not be able to terminate the contract, except where we agree or as otherwise provided for in this contract.
- (b) If we agree to terminate the contract then you will be responsible for the cost of:
 - (i) any of our time in performing the Services up to the date we stop providing the Services.
- (c) In the circumstances stated in paragraph (b) we will first deduct the amounts for which you are responsible from any deposit you have paid. Any remaining deposit will be returned to you. If the amount owing is greater than the deposit we will return invoice you for the amount in excess of the deposit.
- (d) If you:
 - (i) purport to terminate the contract; or
 - (ii) give notice purporting to terminate the contract; or
 - (iii) otherwise do not fulfil your obligations (such as by not paying any sums due to be paid to us) in a way which amounts to you terminating the contract,

we do not have to accept your termination of the contract except as provided in paragraph (b) or as otherwise provided for in this contract. However, we may choose to accept termination of the contract, and if we choose to do so you will be required to pay to us a reasonable amount for the losses and costs (including loss of profit) we have suffered. If you have paid a deposit, this will be retained and if our reasonable losses and costs (including loss of profit) are greater than the deposit we have retained we will require you to pay for our losses and costs in excess of the deposit retained.

10. Termination of contract by us

- (a) We may terminate the contract at any time if we are unable to provide the Services. We will refund any amounts paid to us.

11. Amendments to the contract terms and conditions

We will have the right to amend the terms and conditions of this contract where:

- (a) we need to do so in order to comply with changes in the law or for regulatory reasons; or
- (b) we need to correct any errors or omissions (and this right includes the right to change any of the documentation which forms part of the contract), as long as such correction is minor and does not materially affect the contract.

Where we are making any amendment we will give you 30 days' prior notice (unless the contract is terminated before that period).

12. Contacting each other

If you wish to send us any notice or letter then it needs to be sent to 2 Gittings Lane, BUNINYONG, Victoria, Australia, 3357. If we wish to send you a letter or notice we will use the address you have provided.

13. Law and jurisdiction

This Agreement takes effect, is governed by, and shall be construed in accordance with the laws from time to time in force in Victoria, Australia. The Parties submit to the non-exclusive jurisdiction of the courts of Victoria.