

SKY RACING MEDIA CENTRE SUBSCRIPTION SERVICES Terms and Conditions



PLEASE READ THESE SKY RACING MEDIA CENTRE SUBSCRIPTION SERVICES TERMS AND CONDITIONS BEFORE USING THE CONTENT OR SUBSCRIBING FOR THE SUBSCRIPTION SERVICES IN THE SKY RACING MEDIA CENTRE. SKY CHANNEL PTY LTD RESERVES THE RIGHT, AT ANY TIME, TO MODIFY THESE TERMS OF USE BY POSTING A REVISED VERSION ON THIS WEBSITE AND, WHERE THE MODIFICATIONS RESULT IN THE AMENDMENT OF A MATERIAL TERM, IT WILL POST A NOTICE ALERTING YOU ON THIS WEBSITE. YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD (AND AGREE TO BE BOUND BY) THESE TERMS OF USE NOW AND EVERY TIME YOU USE THE SUBSCRIPTION SERVICES. BY CONTINUING TO USE THE SUBSCRIPTION SERVICES YOU ACCEPT ANY REVISED VERSION.

1. Ownership

Welcome to the Sky Racing Media Centre (the “**Media Centre**”) which is owned and operated by Sky Channel Pty Limited, ABN 77 009 136 010 (“**Sky Racing**”).

2. Access and Use

- 2.1 These are the Terms of Use for the Media Centre, the homepage of which is located at www.skyracing.com.au/media/ (the “**Website**”).
- 2.2 The Website forms part of the Sky Racing Website, the homepage of which is located at www.skyracing.com.au.
- 2.3 When using the Website you must comply with these Terms and Conditions, and any notices and disclaimers elsewhere on the Website (known collectively as “**Terms of Use**”).
- 2.4 Sky Racing may change the Terms of Use at any time so please ensure that you read these each time you use the Website to ensure that you are kept up to date. If you do not agree with them, you should leave the Website immediately. By continuing to use the Website, you accept the current Terms of Use.

3. Interpretation

- 3.1 References to “we”, “us” and “our” are references to Sky Racing.

3.2 In these Terms of Use, unless the context or subject matter otherwise requires:-

- (a) **Content** means SkyForm, Live Stream and any additional online media products or services offered by Sky Racing from time to time, and includes the intellectual property rights (including copyright) in all information, text, material, graphics, fonts, icons, code (including HTML), audio, video, photographs, software and advertisements in SkyForm, Live Stream and in any other additional products or services referred to above, and on the Website.
- (b) **Live Stream** means the broadcast of live racing seen on Sky Racing1 and Sky Racing2 and includes live audio from Sky Sports Radio but **does not** include Victorian and Sydney metropolitan thoroughbred racing. That vision remains accessible via other Sky Channel access points.
- (c) **Review Date** means 1 July each year.
- (d) **SkyForm** means the computer based form guide service that allows users to study the form in-depth and to analyse individual runners for thoroughbred, harness and greyhound racing codes.
- (e) **Status Level** means Bronze, Silver, Gold or Platinum Status Level, and determines what Content can be accessed either free of charge, or by purchasing a Subscription Pass.
- (f) **Subscription Content** has the meaning given in clause 6.4 below.
- (g) **Subscription Pass** means the pass required to be purchased by Bronze Status users and non TAB Wagering Account holders to access and view the Subscription Content.
- (h) **Subscription Service** means the provision of Live Stream and any additional premium online media Content from time to time to you by us.
- (i) **TAB Wagering Account** means the New South Wales or Victorian TAB wagering account (other than an on-course account) that you hold with TAB Limited or Tabcorp Holdings Limited (as applicable), the account number for which you use to register for access to the Content on the Website.

4. Acceptance of terms

In ticking the box and accepting the Terms of Use on the registration page you are entering into a legally binding contract with Sky Racing to access and use the Content and Subscription Services.

5. TAB Account Status Levels

- 5.1 The Subscription Service has four (4) Status Levels, Bronze (entry level), Silver, Gold and Platinum.
- 5.2 When you register to access the Subscription Service for the first time, Sky Racing will determine your Status Level by reference to your current TAB Wagering Account status level. If you believe this is incorrectly allocated, please contact TAB customer service on 131 802.
- 5.3 Based on that TAB Wagering Account turnover, you will be allocated to a Status Level as follows:

| Status Level | 12 month TAB Wagering Account Turnover required |
|-----------------|---|
| Bronze | \$0 - \$24999 |
| Silver or Above | \$25K + |

TAB may elect at its sole discretion to upgrade your Status Level at any time.

- 5.4 If you do not have a TAB Wagering Account, you will need to purchase a Subscription Pass to access the Content.
- 5.5 On each Review Date, Sky Racing will review the turnover on your TAB Wagering Account for the preceding 12 months or part thereof (as applicable) and will determine your Status Level. If, following the review, you move from the Silver Status Level or above to Bronze Level, you will need to purchase a Subscription Pass to continue accessing the Subscription Services Content.
- 5.6 If, on the Review Date, your Status Level is revised upwards from the Bronze Status Level and you are accessing the Subscription Content after having purchased a Subscription Pass, you will not be provided with any refund of the price paid (or part thereof) for your Subscription Pass. Any price discount or provision of free access will apply following the expiry of your Subscription Pass.

6. Subscription Eligibility

- 6.1 Based on your Status Level you may be required to purchase a Subscription Pass to access and view the Content.
- 6.2 Sky Racing may elect to allocate you a Subscription Pass at any time at its sole discretion.

- 6.3 If you have Silver, Gold or Platinum Status, you will be entitled to access the Content and Subscription Service free of charge and will not need to purchase a Subscription Pass.
- 6.4 If you have Bronze Status, you will be entitled to access SkyForm free of charge, but will be required to purchase a Subscription Pass to access Live Stream and video replays and any additional premium online media products or services offered by Sky Racing from time to time (the “**Subscription Content**”).

7. Subscription Pass

- 7.1 There are three (3) types of Subscription Passes to choose from – a day pass, monthly pass and annual pass. The prices for each are set out in the table below but are subject to change from time to time.

| Subscription Pass | Price (\$AUS) | Duration from time of purchase |
|--------------------------|----------------------|---------------------------------------|
| Day Pass | \$5.00 | 24 hours |
| Monthly Pass | \$20.00 | 30 days |
| Annual Pass | \$150.00 | 1 calendar year |

- 7.2 From time to time, NSW TAB Wagering Account holders may be offered NSW TAB Number One Club reward point bonuses or other offers in connection with the purchase of a Subscription Pass or the acquisition of Subscription Content. Please refer to the specific terms and conditions for each such promotion.
- 7.3 The Subscription Pass prices only cover access to the Subscription Services. Telephone line and other communications or access costs may be charged to you separately by your ISP or relevant service provider. All our prices are inclusive of GST. Except in the case of manifest error, the prices payable for the Subscription Services are as set out on this Website at the time at which you place your order. Subscription Pass prices are subject to change, and you should review these Terms of Use each time you wish to purchase a Subscription Pass to confirm the current Subscription Pass price.
- 7.4 Payment for the Subscription Pass must be made by MasterCard or Visa. You confirm that the credit/debit card which is being used is yours. All credit/debit card holders are subject to validation checks and authorisation by the card issuer.

- 7.5 We reserve the right to refuse credit/debit card payments in our reasonable discretion. We will process your payment on a secure site.
- 7.6 Day and Monthly Subscription Pass purchases are payable in full in advance and are non-refundable.
- 7.7 Annual Subscription Pass purchases are payable in advance. You may choose to cancel your Annual Pass early by notifying us in writing. Such a request must be made in writing and addressed to Sky Racing (Internet Manager), 79 Frenchs Forest Road, Frenchs Forest, NSW, 2086. Within [X] days of receipt of your written notification your Annual Pass will be cancelled and we will refund you for the outstanding whole quarter(s) that remain on your Annual Pass. For example, if you cancel your Annual Pass during the second quarter, we will refund you for the remaining two quarters in the sum of \$75. However, if you cancel your Annual Pass during the final quarter, we will not provide you with any refund. Refunds will be paid within [X] days via [insert method of payment].

8. Duration and Termination

- 8.1 We reserve the right to immediately terminate this agreement or your use of, or access to, the Website or the Content after giving you 5 days written notice if we determine, acting reasonably, that you have breached the Terms of Use or any relevant law, rule or regulation or you have engaged in conduct that we consider to be inappropriate or unacceptable.
- 8.2 You will have the right to request an internal review of the decision by us to terminate this agreement or your use of, or access to, the Website or the Content by formal request in writing within 5 days of receipt of notification from us detailed in part 8.1 above. Such a request must be made in writing and addressed to Sky Racing (Internet Manager), 79 Frenchs Forest Road, Frenchs Forest, NSW, 2086.
- 8.3 All restrictions imposed on you, licenses granted by you and all Sky Racing disclaimers, limitations of liability and indemnities set out in the Terms of Use will survive any termination.

9. The Content and Service Availability

- 9.1 We reserve the right to amend the nature and extent of the Content available at any time. Your PC will need to meet the required specification to run the video and other media content. Details of these requirements are available on sky racing.com.au.

- 9.2 You are responsible for ensuring that you have and maintain all the hardware and software necessary to access, receive and view the Content.
- 9.3 In particular, the image and sound quality of the Content may vary, whether due to congestion on the internet or telephone lines or otherwise. You understand that the Content may not be uninterrupted, timely, secure or error-free.
- 9.4 From time to time we will need to close the Website to carry out upgrades or maintenance. We will try to keep this to a minimum and where possible, post a notice alerting you to the upgrades or maintenance on the Website. Subject to the constraints described above, we will provide the Content with reasonable care and skill. Apart from this we make no representation or warranty (and exclude all warranties and conditions otherwise implied, to the fullest extent permitted by law).
- 9.5 This does not affect any other statutory rights you may have as a consumer.

10. Intellectual Property Rights

- 10.1 The intellectual property rights in the Content are owned by or licensed to Sky Racing. The Content is protected by Australian and international intellectual property laws.
- 10.2 The Sky Racing logo used on the Website is a registered trade mark of Sky Racing. The Sky Form, Sky Racing, Sky Ringside and Sky Ratings logos are also trade marks of Sky Racing. None of these trade marks may be used or reproduced in any form without the prior written consent of Sky Racing.
- 10.3 You must not modify, copy, reproduce, sell, frame, scrape, upload to a third party, create derivative works from, post, transmit or distribute the Content in any way except as expressly provided for on the Website or expressly authorised in writing by Sky Racing. You may not use a trade mark displayed on the Website without Sky Racing or the relevant owner's written permission.
- 10.4 Further, you must not make use of any "Meta tags" or other "hidden text" that uses Sky Racing's name or trade mark or product name without Sky Racing's prior written consent.
- 10.5 If you wish to use or reproduce any of Sky Racing's Trade Marks, or the Content, you will require our express prior permission. To obtain this, please contact Sky Racing's Internet Manager at 79 Frenchs Forest Road, Frenchs Forest NSW 2086, Telephone 1800 251 710.

11. Your use of the Services

- 11.1 You may, using an industry-standard web browser, download and view the Content for your personal, non-commercial use only. This means, for example, that you must not charge for viewing of the Content and that you cannot use the Content to attract others to buy goods or services from you or anyone else.
- 11.2 In subscribing to the Content, you must not:
- (a) disrupt the operation or security of the Website or the Subscription Service or any accounts, servers, or networks connected or accessible through the Website;
 - (b) use the Content in a way that may harass, annoy or disrupt any third person, including a third person who may receive messages as a result of your use of the Content;
 - (c) submit any unlawful, threatening, abusive, defamatory, obscene, vulgar, pornographic, profane or indecent information or material of any kind including without limitation any material constituting or encouraging conduct that would constitute a criminal offence, give rise to civil liability or otherwise violate any applicable law;
 - (d) submit any material of any kind which violates or infringes the rights of any other person, including material which is an invasion of any privacy rights, which is protected by copyright, trade mark or any other proprietary right without first obtaining the permission of the owner or relevant right holder;
 - (e) submit any material of any kind which contains a virus or other harmful component;
 - (f) delete any author attribution's, legal notices, or proprietary designations or labels in any material that is submitted;
 - (g) modify or delete any content on the Website or add any content to the Website;
 - (h) alter, disassemble, decompile or reverse engineer any part of the Subscription Service or Content;
 - (i) attempt to gain unauthorised access to any part of the Website;
 - (j) copy, record or store all or any part of the Content (other than on a purely transitory basis to permit you to view them) or divert, re-transmit or otherwise distribute all or any part of the Content to any person, or authorise, enable or procure any other person to do any of the above;

- (k) view the Content in circumstances where members of the public can view them simultaneously or authorise, enable or procure any other person to do so; and
- (l) abuse the Content or use it for any unlawful or unauthorised purpose (which includes transmitting any computer viruses through the site, or using the site in a manner which violates or infringes the rights of anyone else). As well as our right to terminate for breaches by you we may suspend the supply of the Content or Subscription Service if your use of it is abusive, excessive or against the interests of other subscribers or in breach of these Terms of Use, or if we are requested to do so by a regulatory authority.

- 11.3 We reserve the right to co-operate fully with any law enforcement authority in any jurisdiction in respect of any lawful direction or request to disclose the identity or other information in respect of anyone posting any materials which violate any applicable or relevant law.
- 11.4 The design, text, graphics, footage, images and other feed you receive (and any selection or arrangement) are subject to the copyright of Sky Racing.

12. Services and Accuracy of Information

- 12.1 We do not warrant that the material or functions contained in the Website or your access to them will be uninterrupted, error-free or free of viruses or any other harmful components.
- 12.2 We do not warrant or make any representation regarding accessibility, correctness, accuracy, timeliness, completeness, reliability or otherwise in respect of the Website or materials or functions contained on the Website.
- 12.3 You expressly acknowledge and agree that we do not control users of the Website and we are not liable for their behaviour including any information, defamatory statements or offensive conduct.

13. Delays and Viruses

We will not be liable for damage or loss resulting from any delay in operation or transmission, virus, harmful component, communications failure, internet access difficulties or malfunction in the provision of the Content, equipment or software, howsoever caused.

14. If the Website is unavailable

- 14.1 It is your responsibility to use other means of effecting transactions and obtaining information if for any reason you are unable to use the Content or the Content is unavailable.
- 14.2 We undertake to make all reasonable efforts to ensure that the Content you use is available to you during the hours specified by us from time to time but as far as is permissible by law we are not liable to you for or in connection with:
- (a) Failure of the Content to perform in whole or in part, any function which we have specified it will perform;
 - (b) The unavailability of the Content to you in whole or in part because of the failure of the communication network, ancillary equipment or any circumstance beyond our reasonable control; or
 - (c) Delays or errors in the execution of any transaction or instruction because of the communication network, ancillary equipment or any circumstance beyond our reasonable control.

15. Linked Sites and Advertising

- 15.1 You may be able to access third party websites from this Website. We do not make any representations in relation to the content, quality, or reliability of these websites, and our inclusion of a link to them does not imply that we have any relationship or affiliation with them. We are not responsible for the content or practices of third party websites that may be linked to the Website.
- 15.2 The Website may also be linked to other websites operated by companies affiliated or connected with Sky Racing. When visiting other websites, you must refer to each such website's individual terms and conditions of use.
- 15.3 We take no responsibility for third party advertisements which are posted on the Website, nor do we take any responsibility for the goods or services provided by advertisers.

16. Sky Ratings Services

Any Ratings Service we offer:

- (a) Does not offer an opinion as to which runner will win any race;
- (b) Does not offer advice on whether to wager;
- (c) Does not offer advice on how much to wager;
- (d) Does not make any representations or give any warranties as to the likelihood of profiting from the Sky Ratings service; and

- (e) Does not take into account your personal circumstances, as we are not aware of these.

17. On-Line Purchases of Ratings, Form and Merchandise

17.1 All prices listed are in Australian dollars. We do not hold Credit Card details. If any fraud occurs directly via this Website, we may hold the following details and refer the incident and these details to the relevant authorities and financial institution:

- (a) Date Time
- (b) Card Number
- (c) Expiry Date
- (d) Registered User ID
- (e) CartID
- (f) User IP

17.2 Once you purchase ratings, you will be provided a screen with an appropriate link. Once the link is clicked on and the page loads, the product is deemed to have been viewed and will no longer be available. You will be able to provide an email address and password to log in and view details of past transactions. In the event that you have ratings not viewed from that day, you will be given an opportunity to view them.

17.3 Regarding services delivered by email, you are required to sign up and provide a valid email address. We will then email a login and password to that email address by way of verification.

17.4 We are only responsible for delivery to your email server. It is your responsibility to retrieve the mail from your server. It is also your responsibility to ensure that there is adequate space on the server for these emails.

18. Linking to this Website

18.1 You must not create a hyperlink to any page within the Website unless we give you express prior written permission. We reserve the right to attach Terms and Conditions to any consent.

18.2 We are not responsible for the content of any third party websites that may be linked to this site. You must acquaint yourself with the Terms and Conditions of each individual site.

19. Indemnity

We rely on your continued observance of these Terms of Use. If we suffer any loss or damage or incur any costs in connection with any breach of these Terms of Use or any other

legal obligation then you agree to indemnify us for those losses, damages and costs.

20. Limitation of Liability

20.1 Subject to the following paragraph, under no circumstances will we or any related corporation or their respective directors or employees be liable to you for any losses, damages, liabilities, claims or expenses (including legal costs) whether direct, indirect, or consequential howsoever caused (including, without limitation, negligence) suffered or incurred by you arising out of:

- (a) use of, or any inability to use the Subscription Service or any third party website;
- (b) the Content of this Website or any third party website;
- (c) any services offered or made available to you by Sky Racing through the Website.

20.2 If the Trade Practices Act 1974 (TPA) or any other legislation implies a condition or warranty into these Terms of Use in respect of goods or services supplied by Sky Racing, and Sky Racing's liability for breach of that condition or warranty may not be excluded but may be limited, the previous paragraph does not apply to that liability and instead Sky Racing's liability for any breach of that condition or warranty is limited to in the case of a supply of goods, Sky Racing doing any one or more of the following (at Sky Racing's election):

- (a) replacing the goods or supplying equivalent goods;
- (b) repairing the goods;
- (c) paying the reasonable cost of replacing the goods or of acquiring equivalent goods;
- (d) paying the reasonable cost of having the goods repaired,

and, in the case of a supply of services, Sky Racing doing either or both of the following (and at Sky Racing's election):

- (a) supplying the Subscription Service again;
- (b) paying the reasonable costs of having the Subscription Service supplied again.

20.3 Nothing in these Terms of Use is intended to exclude, restrict or modify rights which you may have under the TPA or any other legislation which may not be excluded, restricted or modified by agreement.

21. Force Majeure

21.1 Sky Racing shall have no liability to you for any delay or failure to deliver the Content to the extent that such delay or failure to

deliver arises from causes beyond the reasonable control of Sky Racing, including, but not limited to, the failure of electronic or mechanical equipment or communication lines, third party action (including denial of service attack and overuse or misuse of the Content), Sky Racing's telephone or other internet connection problems, computer viruses, unauthorised access, theft, operator errors, fire, severe weather conditions, including floods, acts of God, acts or regulations of any regulatory, governmental or supranational authority, war, terrorist act, riot, strike, lock-out, industrial disputes and the cancellation or postponement of any sporting match or event to which the Content relates.

- 21.2 If this means that you fail to receive a substantial element of the Subscription Service (as reasonably determined by Sky Racing), on application by you to Sky Racing, Sky Racing will refund such proportion of the sum pre-paid by you in respect of the Subscription Service as it decides, acting reasonably, is fair in the circumstances.

22. Waiver

No failure to exercise or delay in exercising any right, powers or remedy by either of Sky Racing shall be construed or operate as a waiver of any rights or remedies, or of any subsequent breach of any provision of these Terms of Use. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

23. Miscellaneous

- 23.1 These Terms of Use apply to the full extent possible in relation to the supply by Sky Racing of any content or services for a wireless application protocol service ("WAP service"), a short messaging service for mobile phone users ("SMS service") and personal digital assistant service ("PDA service").
- 23.2 These Terms of Use will be governed by and construed in accordance with the laws of New South Wales, Australia. You irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales. If any provision of these Terms of Use is found to be invalid or unenforceable by a court of law, such invalidity or unenforceability will not affect the remainder of the terms which will continue in full force and effect.

24. Privacy

- 24.1 Please review our Privacy Policy available at <http://www.skyracing.com.au/company/legal/privacy.php>, which also governs your visit to the Website.
- 24.2 All rights not expressly granted herein are reserved.