

SUBSCRIPTION TERMS AND CONDITIONS

1. ACCEPTANCE

- 1.1.** This Agreement is between Shayden William Carlton Mihan trading as Ahead of the Pack Punting ABN 12 241 498 781 its successors and assignees, (referred to as “**we**”, “**us**”, “**our**” or “**Company**”), and the Client described in the Subscription Form (referred to as “**you**” or “**your**”), and collectively the Parties.
- 1.2.** You have requested the services set out in the attached Subscription Form (**Services**). You agree and accept that these Terms and Conditions (**Terms**) **form the agreement under which we will supply Services to you for the Term. Please read the Terms carefully.** Please contact us if you have any questions.
- 1.3.** You accept our Subscription Form and Terms by:
- (a) accepting/submitting the Subscription Form online;
 - (b) confirming in writing including by email that you accept the Subscription Form;
 - (c) allowing us to proceed with the Services; or
 - (d) signing and returning the Subscription Form;
 - (e) making part or full payment for the Services.
- 1.4.** The term of this Agreement is ongoing until terminated in accordance with this Agreement (**Term**).

2. RESPONSIBLE GAMBLING

- 2.1.** We support responsible gambling practices and encourage all subscribers to gamble responsibly. If gambling is negatively affecting your life, please seek professional help.

National Gambling Helpline: 1800 858 858
(www.gamblinghelponline.org.au)

3. OUR SERVICES

- 3.1.** We provide sports and racing betting tips, analysis, and commentary (**Services**) for informational and entertainment purposes only. We do not facilitate, process, or accept wagers, nor do we operate any gambling or betting services.
- 3.2.** You acknowledge that all betting activities, if undertaken, are done independently on third-party platforms that have no association with us. We do not encourage or induce gambling, and we are not responsible for any betting decisions made by you.
- 3.3.** We make no representations or guarantees regarding the accuracy, profitability, or success of the Services provided. Past performance is not indicative of future results, and all betting involves risk. You are solely responsible for any financial decisions you make.
- 3.4.** We agree to perform the Services set out in the Subscription Form with due care and skill for the Term.
- 3.5.** The Services are only available to individuals aged 18 years and over.
- 3.6.** You must comply with all applicable gambling laws in your jurisdiction, state or territory. We accept no liability for any breaches of local gambling regulations by you.

- 3.7.** We may provide the Services to you using our employees, contractors and third-party providers and they are included in these Terms.
- 3.8.** When you engage third parties that are neither our employees nor contractors we have directly appointed, their services or products fall under your oversight. We bear no liability for the outcomes or quality of the services or products provided by these independent third parties.
- 3.9. Refunds:** To the extent permitted by law, you will not be entitled to refunds of any kind.
- 4. PRICE, INVOICING AND PAYMENT**
- 4.1.** All amounts are stated in Australian dollars. All amounts exclude Australian GST (where applicable).
- 4.2.** You must pay the Fees to us in the amounts and at the times specified in the pricing section of the Subscription Form.
- 4.3.** Your Fees for Services will continue to renew on a monthly basis indefinitely, and you must pay Fees in respect of each monthly period, unless terminated in accordance with this Agreement.
- 4.4.** Payment may be made by way of payment methods as set out in our Subscription Form when purchasing our Services. We may use third-party payment providers (**Payment Providers**) to collect payment of the Subscription Fees. The processing of payments by the Payment Provider will be, in addition to these terms, subject to the terms, conditions and privacy policies of the Payment Provider and we are not liable for the security or performance of the Payment Provider. We reserve the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your Subscription Fees
- 4.5.**
- 4.6.** If set out in the Subscription Form, we will not commence performing our Services until you have paid the first instalment of our Fees.
- 4.7.** If you do not pay by the payment date (including any other services we have provided to you), we may cease to provide the Services to you until we receive payment.
- 4.8.** We may charge interest at a rate equal to the Reserve Bank of Australia’s cash rate from time to time plus 8% per annum, calculated daily and compounding monthly, on any amounts unpaid after the payment date.
- 4.9.** If payments are unpaid after the payment date, we reserve the right to take steps to recover any outstanding professional fees and outlays owing to us. In the event of non-payment, we have the right to engage debt collection services for the collection of unpaid debts, the right to commence legal proceedings for any outstanding amounts owed to us and the right to take any other adverse action against you as we consider appropriate. If any action is required to recover

amounts owing to us (including without limitation issuing and receiving any correspondence, commencing court proceedings, taking enforcement action and so on), you acknowledge and agree that you are liable for and must pay all costs including without limitation debt collection, commission, charges, costs and any out-of-pocket expenses (including all legal costs and legal fees on an indemnity basis and all fees charged by counsel). You agree to indemnify us against any costs we may incur in recovering payment of any unpaid invoices.

4.10. We reserve the right to report bad debts to independent credit data agencies.

4.11. Our pricing structure, payment methods and these Terms may be amended from time to time in our discretion. The pricing changes will apply to you for services provided to you after the date of the change and in any event no earlier than the date that the amended or new Terms are provided to you, or if you enter into a new agreement, whichever is earlier. After a pricing change, you have the choice to continue using the Services, or to cease to use the Services without penalty.

5. YOUR COMMITMENT TO US

5.1. You warrant that throughout the term of this Agreement that:

- (a) there are no legal restrictions preventing you from agreeing the Terms;
- (b) you are over the age of 18 and there are no legal restrictions preventing you from agreeing to these Terms or from receiving the Services;
- (c) you are located in Australia and will comply with the gambling laws applicable in your state or territory;
- (d) you understand that our Services are for information and entertainment purposes only and do not constitute financial advice, gambling services, or a guarantee of outcomes;
- (e) you will not share, reproduce, resell, or distribute any of the content or tips provided to you under this subscription without our prior written consent;
- (f) you will use the Services responsibly and acknowledge that any betting decisions made using the information we provide are undertaken at your own risk and discretion;
- (g) you will cooperate with us and provide us with accurate, complete, and up-to-date information as reasonably required for us to provide the Services, including but not limited to informing us in writing of any changes to your email address or bank details where applicable;
- (h) you will not infringe any third-party rights in connection with your receipt or use of the Services;

- (i) you will promptly inform us if you have reasonable concerns relating to our provision of the Services, so that we may work with you to address them;
- (j) you are solely responsible for obtaining any necessary consents, licences, or permissions required to lawfully use the Services in your jurisdiction, at your cost.

6. OUR INTELLECTUAL PROPERTY

6.1. We own the Intellectual Property rights in:

- (a) our pre-existing Intellectual Property, including but not limited to copyright which subsists in all creative and literary works incorporated into our pre-existing Intellectual Property; and
- (b) intellectual Property that we create during the course of the Services, including but not limited to copyright which subsists in all creative and literary works in all Intellectual Property that we create during the course of the Services; unless we assign or transfer this to you. This Intellectual Property is protected by Australian and international laws.

6.2. Nothing in these Terms constitutes an assignment or transfer of our Intellectual Property rights, or a right to use our Intellectual Property, whether registered or unregistered, except as stated in these Terms or with our written permission. You are granted a limited, non-exclusive, non-transferable licence to use the materials we provide to you for your personal use only, in accordance with these Terms.

6.3. You must not breach our Intellectual Property rights by, including but not limited to:

- (a) altering or modifying our Intellectual Property;
- (b) creating derivative works from the Intellectual Property;
- (c) using our Intellectual Property for commercial purposes such as resale, redistribution, or public display; or
- (d) allowing or assisting any third party to do any of the above.

6.4. This clause will survive the termination of these Terms.

7. CONFIDENTIAL INFORMATION

7.1. We, including our employees and contractors, agree not to disclose your Confidential Information to any third party; to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; only to use the Confidential Information for the purpose for which it was disclosed by you and not for any other purpose.

7.2. You agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; and only to use the Confidential Information for the purpose for which it was disclosed or provided by us to you, and not for any other purpose.

7.3. These obligations do not apply to Confidential Information that:

- (a) is authorised to be disclosed;

- (b) is in the public domain and/or is no longer confidential, except as a result of breach of these Terms;
 - (c) is received from a third party, except where there has been a breach of confidence; or
 - (d) must be disclosed by law or by a regulatory authority including under subpoena.
- 7.4. The obligations under this clause will survive termination of these Terms.
- 8. FEEDBACK AND DISPUTE RESOLUTION**
- 8.1. Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about our Services, please contact us.
- 8.2. If there is a dispute between the Parties in relation to these Terms, in the first instance the Parties agree to the following dispute resolution procedure:
- (a) The complaining Party must tell the other Party in writing, the nature of the dispute, what outcome the complaining Party wants and what action the complaining Party thinks will settle the dispute. The Parties agree to meet (virtually) in good faith to seek to resolve the dispute by agreement between them (**Initial Meeting**).
 - (b) If the Parties cannot agree how to resolve the dispute at the Initial Meeting, any Party may refer the matter to a mediator. If the parties cannot agree on who the mediator should be, the complaining Party will ask the Law Society of Queensland to appoint a mediator. The mediator will decide the time and place for mediation (may be virtual). The Parties must attend the mediation in good faith, to seek to resolve the dispute and will be equally responsible for the costs of the mediator.
- 8.3. Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity.
- 9. TERM AND TERMINATION**
- 9.1. Either Party may terminate these Terms without cause by providing the other Party with at least 7 days' written notice prior to the end of the then-current billing cycle. Termination will take effect at the end of that billing cycle, and no further fees will be charged beyond that date. We will not pay any charge back amount if you fail to terminate the Services in accordance with this clause. Such notice will not affect charges submitted before we could reasonably act on such notice.
- 9.2. If either Party commits a remediable breach of these Terms and does not remedy the breach at its cost within a reasonable time after receiving written notice of the breach from the other Party, then the Parties agree to engage in the dispute resolution process set out in clause 9.2 in the first instance. If the dispute is not resolved after following that process, then either

- Party may terminate these Terms at any time upon written notice to the other Party.
- 9.3. We may terminate these Terms immediately upon written notice to you, if:
- (a) you commit a non-remediable breach of these Terms;
 - (b) you fail to provide us with clear or timely instructions to enable us to provide the Services;
 - (c) for any other reason outside our control which has the effect of compromising our ability to perform the Services within the required timeframe; or
 - (d) you fail to pay the Fees, or any part thereof by the due date.
- 9.4. You may terminate these Terms immediately upon written notice to us if we commit a non-remediable breach of these Terms.
- 9.5. On termination of these Terms in accordance with clause 9.3 or clause 9.4 you agree that any payments made are not refundable to you to the extent of all Services provided prior to termination, including Services which have been performed and have not yet been invoiced to you.
- 9.6. On termination of these Terms, you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and/or Intellectual Property.
- 9.7. On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and/or Intellectual Property.
- 9.8. On completion of the Services, we will retain your documents related to the provision of the Services to you (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 9.9. The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.
- 10. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS**
- 10.1. ACL:** If you are a consumer within the meaning of that term for Schedule 2 of the Competition and Consumer Act 2010 (Cth) (CCA), certain legislation including the Australian Consumer Law (**ACL**) in the CCA, and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**). Our liability is governed solely by the ACL and these Terms. Nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our liability for Services provided to an entity defined as a consumer under the ACL is

- governed solely by the ACL and these Terms. We exclude all conditions and warranties implied by custom, law or statute except for your Statutory Rights.
- 10.2. **Delay:** Where the provision of Services depends on your information or response, we have no liability for a failure to perform the Services in this estimated period, which is affected by your delay in response, incomplete or incorrect information.
- 10.3. **Referral:** On request by you, we may provide you with contact details of third-party specialists. Any such referral is provided for your convenience only and does not constitute a recommendation, endorsement, or guarantee by us. We make no representation or warranty about the quality, suitability, or accuracy of the third party's advice or services, and we expressly disclaim all responsibility and liability for any acts, omissions, advice, services, or failures to provide services by that third party. You are solely responsible for assessing the suitability of any third-party provider for your needs.
- 10.4. **Warranties:** To the extent permitted by law, we exclude all express and implied warranties, and all material and work is provided to you without warranties of any kind, either express or implied. We expressly disclaim all warranties including but not limited to implied warranties of merchantability and fitness for a particular purpose.
- 10.5. **Liability:** Our liability for any Loss or Claim in relation to any Services, Subscription Form or these Terms (whether under statute, contract, negligence or other tort, indemnity, or otherwise) will be limited to the amount of the Fees paid by you to us in respect of the relevant Services giving rise to this Loss or Claim.
- 10.6. We will not be liable to you for any Loss or Claim arising (whether under statute, contract, negligence or other tort, indemnity, or otherwise) in relation to any Consequential Loss.
- 10.7. To the extent permitted by law, we will not be liable to you for any Loss or Claim caused or contributed by:
- (a) any implied or express guarantees, warranties, representations, or conditions not expressly stated in these Terms, including any guarantee of results or returns. You acknowledge that results are not guaranteed, past performance is not indicative of future outcomes, and our Services do not constitute financial or investment advice;
 - (b) any interpretation or reliance on our tips as predictions of financial gain or certainty of outcomes;
 - (c) any assumption that we facilitate, promote, or encourage gambling activities. We provide betting tips and commentary for informational purposes only, and we do not offer or accept wagers, nor do we induce gambling;
 - (d) our Services being unavailable;
 - (e) any delays out of our reasonable control;
 - (f) the corruption, deletion or changes in part or whole of the Electronic Data;
 - (g) difficulties in receiving, sending, accessing or utilising Electronic Data at any time;
 - (h) temporary delays, disruptions or failures in the delivery of our tips or other communications due to technical issues, including internet or email service interruptions; and
 - (i) any loss, damage, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, or otherwise, suffered by you or claims made against you, arising out of or in connection with the inability to access or use the Services, and the late supply of Services, even if we were expressly advised of the likelihood of such loss or damage.
- 10.8. This clause will survive termination of these Terms.
- 11. INDEMNITY**
- 11.1. You are liable for and agree to indemnify, defend and hold us harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
- (a) your breach of these Terms;
 - (b) any misuse of the Services by you; and
 - (c) your breach of any law or third party rights in connection with our provision of the Services to you; and
 - (d) any Claims, liabilities, costs, losses, or expenses arising from your use of the Services, including but not limited to those related to disputes, complaints, investigations, or litigation associated with incorrect information you have provided to us.
- 11.2. We are liable for and agree to indemnify, defend and hold harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
- (a) our breach of these Terms;
 - (b) any defect or omission in the Services from or by us, our employees, contractors or agents;
 - (c) our breach of any law or third party rights in connection with our provision of the Services to you.
- 11.3. The Parties agree to co-operate with each other (at their own expense) in the handling of disputes, complaints, investigations or litigation that arises as a result of these Terms.
- 11.4. This clause will survive the termination of these Terms.
- 12. GENERAL**
- 12.1. **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.

- 12.2. **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 12.3. **GST:** If and when applicable, GST or other foreign equivalent payable on our Services will be set out on our Invoices. By accepting these Terms you agree to pay us an amount equivalent to the GST or other foreign equivalent imposed on these charges.
- 12.4. **Relationship of parties:** The Terms are not intended to create a relationship between the parties of partnership, joint venture, or employer-employee.
- 12.5. **Assignment:** The Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 12.6. **Severance:** To the extent permitted by law, if any provision (or part of it) of the Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) of these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of the Terms are valid and enforceable.
- 12.7. **Force Majeure:** Neither Party will be liable for any delay or failure to perform its obligations under the Terms if such delay is due to any circumstance beyond their reasonable control.
- 12.8. **Jurisdiction & Applicable Law:** These terms are governed by the laws of Queensland and the Commonwealth of Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland.
- 12.9. **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.
- 13. DEFINITIONS**
- 13.1. **Agreement** means these Terms and the Subscription Form.
- 13.2. **Claim** means any actual, contingent, present or future claim, demand, action, suit or proceeding for any Loss, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy of whatever nature and however arising, whether direct or indirect, and whether in contract, tort (including but not limited to negligence) or otherwise;
- 13.3. **Confidential Information** includes confidential information about the business, structure, programs, processes, methods, operating procedures, activities, products and services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, know-how, Intellectual Property, technology, and other information whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 13.4. **Consequential Loss** means any loss of actual or anticipated profits, revenue, savings, production, business, opportunity, goodwill, reputation, publicity, date or use;
- 13.5. **Electronic Data** means ideas, notes and information used for communications, displays, distribution, interpretation or processing by electronic and electromechanical data processing systems or electronic equipment and includes programmes, software and other coded instructions for such equipment.
- 13.6. **Fees** as set out in the Subscription Form.
- 13.7. **GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations, or other foreign equivalent.
- 13.8. **Intellectual Property** includes any and all intellectual and industrial property rights throughout the world, whether subsisting now or in the future and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks, designs (whether or not registered or registrable), circuit layouts, trade names, trade secrets, business names, company names or internet domain names.
- 13.9. **Laws** means acts, ordinances, regulations, rules, code and by-laws of the Commonwealth or any state or territory;
- 13.10. **Loss** means any loss, liability, cost, payment, damages, debt or expense (including but not limited to reasonable legal fees);
- 13.11. **Moral Rights** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).
- 13.12. **Term** means the term set out in the Subscription Form.