


# Sportscarnival SaaS Agreement

## PARTIES

1. Sportscarnival LLC [759059300028] (supplier )
2. Eau Claire Curling Club (Client)


## SECTION A: AGREEMENT AND KEY DETAILS

### AGREEMENT

The Supplier agrees to provide, and the Client agrees to buy, the Sportscarnival Club Module Software as a Service offering, and related services, on the terms of the Agreement. The Agreement comprises:

- Section A (Agreement and Key Details, including this cover page and the signature clauses); and
- Section B (General Terms)


### KEY DETAILS

Item	Detail
<b>SaaS Service</b>	Sportscarnival is a dynamic software platform for building online sports club and communities.
<b>Provided Services</b> 	<ul style="list-style-type: none"><li>• Creation of Sportscarnival module specific to Eau Claire Curling Club</li><li>• Migration of club content from existing platform to new Sportscarnival Platform</li><li>• Assistance with pointing domain curlingclub.com to Sportscarnival platform</li><li>• 5 hours of onboard training</li><li>• 30 hours of custom development specific to Eau Claire Curling clubs needs</li><li>• Module to be completed within 45 days of contract being signed and access to old platform data</li><li>• five hours of custom development per month after the launch for duration of first year.</li><li>• Free three month trial from start date. No obligations</li><li>• Unlimited support for technical issues and troubleshooting</li></ul>
<b>Fees and Payment</b>	\$400/year or \$40/month. No year to year or month to month

	obligation
<b>Website</b>	https://sportscarnival.com
<b>Start Date</b>	Date both parties sign this agreement
<b>End Date</b>	Any time with two week notice from client. Supplier must give 90 day notice to cancel contract with client.

**SIGNED**

**SIGNED for and on behalf of Sportscarnival by** 

\_\_\_\_\_  
Authorized Signatory 

\_\_\_\_\_  
Print Full Name

**SIGNED for and on behalf of Eau Claire Curling Club by:**

\_\_\_\_\_  
Authorized Signatory


\_\_\_\_\_  
Print Full Name

**SECTION B: GENERAL TERMS**

**1. INTERPRETATION**

1.1 **Definitions:** In the Agreement, the following terms have the stated meaning:

<b>Term</b>	<b>Meaning</b>
Agreement	Section A (Agreement and Key Details, including the cover

	page and signature clauses) and Section B (General Terms).
Confidential Information	the terms of the Agreement and any information that is not public knowledge and that is obtained from the other party in the course of, or in connection with, the Agreement. The Supplier's Confidential Information includes Intellectual Property owned by the Supplier (or its licensors), including the Sports Carnival Software. The Client's Confidential Information includes the Data.
Data	all data, content, and information (including Personal Information) owned, held, used or created by or on behalf of the Client that is stored using, or inputted into, the Services.
End Date	the end date set out in the Key Details
Fees	the fees set out in the Key Details
Intellectual Property Rights	includes copyright and all rights existing anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trademarks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. Intellectual Property has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property
Key Details	the Agreement specific details set out in Section A of the Agreement.
Objectionable	includes being objectionable, defamatory, obscene, harassing, threatening, harmful, or unlawful in any way.
Payment Terms	the payment terms set out in the Key Details.
Personal Information	has the meaning given in the Privacy Act 1993 
Related Services	any related service described in the Key Details and any further services that the Supplier agrees to provide to the Client under the Agreement.
SaaS Service	the service having the core functionality described in the Key Details. [The SaaS Service is described in more detail on the Website, as the Website is updated from time to time.]
Services	the SaaS Service and any Related Service.

Start Date	the start date set out in the Key Details.
Website	the internet site at the domain set out in the Key Details, or such other site notified to the Client by the Supplier.

**1.2 Interpretation:** In the Agreement:

- A. clause and other headings are for ease of reference only and do not affect the interpretation of the Agreement;
- B. words in the singular include the plural and vice versa;
- C. a reference to:
  - a. a party to the Agreement includes that party's permitted assigns;
  - b. personnel includes officers, employees, contractors and agents, but a reference to the Client's personnel does not include the Supplier;
  - c. a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a government department, or any other entity;
  - d. including and similar words do not imply any limit; and
  - e. a statute includes references to regulations, orders or notices made under or in connection with the statute or regulations and all amendments, replacements or other changes to any of them;
- D. no term of the Agreement is to be read against a party because the term was first proposed or drafted by that party; and
- E. if there is any conflict between Section B and Section A of the Agreement, Section B prevails unless expressly stated otherwise in Section A.

## 2. Services

**2.1 General:** The Supplier must use reasonable efforts to provide the Services:

- A. in accordance with the Agreement and Federal law;
- B. exercising reasonable care, skill and diligence; and
- C. using suitably skilled, experienced and qualified personnel.

**2.2 Non-exclusive:** The Supplier's provision of the Services to the Client is non-exclusive. Nothing in the Agreement prevents the Supplier from providing the Services to any other person

**2.3 Availability:**

- A. [Subject to clause 2.3B] The Supplier will use reasonable efforts to ensure the SaaS Service is available [during normal business hours in the central time zone on a 24/7 basis. However, it is possible that on occasion the SaaS Service may be unavailable to permit maintenance or other development activity to take place. The Supplier will use reasonable efforts to publish on the Website [and/or notify you by email] advance details of any unavailability.
- B. Through the use of web services and APIs, the SaaS Service interoperates with a range of third party service features. The Supplier does not make any warranty or representation on the availability of those features. Without limiting the previous sentence, if a third party feature provider ceases to provide that feature or ceases to make that feature available on reasonable terms, the Supplier may cease to make available that feature to the Client. To avoid doubt, if the Supplier exercises its right to cease the availability of a third party feature, the Client is not entitled to any refund, discount or other compensation.

**2.4 Additional Related Services:**

- A. The Supplier may, from time to time, make available additional services to supplement the SaaS Service.
- B. At the request of the Client and subject to the Client paying the applicable Fees, the Supplier may agree to provide to the Client an additional Related Service on the terms of the Agreement.

### **3. Client Obligations**

3.1 **General use:** The Client and its personnel must:

- A. use the Services in accordance with the Agreement solely for:
  - a. the Client's own internal business purposes; and
  - b. lawful purposes
- B. not resell or make available the Services to any third party, or otherwise commercially exploit the Services.

3.2 **Access conditions:** When accessing the SaaS Service, the Client and its personnel must:

- A. not impersonate another person or misrepresent authorisation to act on behalf of others or the Supplier;
- B. correctly identify the sender of all electronic transmissions;
- C. not attempt to undermine the security or integrity of the Underlying Systems;
- D. not use, or misuse, the SaaS Service in any way which may impair the functionality of the Underlying Systems or impair the ability of any other user to use the SaaS Service;
- E. not attempt to view, access or copy any material or data other than:
  - a. that which the Client is authorised to access; and
  - b. to the extent necessary for the Client and its personnel to use the SaaS Service in accordance with this Agreement;
- F. neither use the SaaS Service in a manner, nor transmit, input or store any Data, that breaches any third party right (including Intellectual Property Rights and privacy rights) or is Objectionable, incorrect or misleading; and
- G. comply with any terms of use on the Website, as updated from time to time by the Supplier

## 4. Data

4.1 **Supplier access to Data:**

- A. The Client acknowledges that:
  - a. the Supplier may require access to the Data to exercise its rights and perform its obligations under the Agreement; and

- b. to the extent that this is necessary but subject to clause 7, the Supplier may authorise a member or members of its personnel to access the Data for this purpose.

4.2 **Analytical Data:** The Client acknowledges and agrees that:

- A. the Supplier may:
  - a. use Data [and information about the Client's [and the Client's end users'] use of the Services] to generate anonymised and aggregated statistical and Analytical Data; [and]
  - b. use Analytical Data for the Supplier's internal research and product development purposes and to conduct statistical analysis and identify trends and insights; [and]
- B. the Supplier's rights under clause 4.2a above will survive termination of expiry of the Agreement; [and]
- C. title to, and all Intellectual Property Rights in, Analytical Data is and remains the Supplier's property.

4.3 **Indemnity:** The Client indemnifies the Supplier against any liability, claim, proceeding, cost, expense (including the actual legal fees charged by the Supplier's solicitors) and loss of any kind arising from any actual or alleged claim by a third party that any Data infringes the rights of that third party (including Intellectual Property).



4.5 **Client Data Rights:** The Client is entitled to all content it uploads and generates from Sportscarnival. Including images, video, written content, and reports generated from the application.

## 5. INTELLECTUAL PROPERTY

5.1 **Ownership:**

- A. Subject to clause 6.1B, title to, and all Intellectual Property Rights in, the Services, the Website, and all Underlying Systems is and remains the property of

the Supplier (and its licensors). The Client must not contest or dispute that ownership, or the validity of those Intellectual Property Rights.

- B. Title to, and all Intellectual Property Rights in, the Data (as between the parties) remains the property of the Client. The Client grants the Supplier a worldwide, non-exclusive, fully paid up, transferable, irrevocable licence to use, store, copy, modify, make available and communicate the Data for any purpose in connection with the exercise of its rights and performance of its obligations in accordance with the Agreement.

5.2 **Know-how:** To the extent not owned by the Supplier, the Client grants the Supplier a royalty free, transferable, irrevocable and perpetual licence to use for the Supplier's own business purposes any know-how, techniques, ideas, methodologies, and similar Intellectual Property used by the Supplier in the provision of the Services.

5.3 **Feedback:** If the Client provides the Supplier with ideas, comments or suggestions relating to the Services or Underlying Systems (together feedback): a) all Intellectual Property Rights in that feedback, and anything created as a result of that feedback (including new material, enhancements, modifications or derivative works), are owned solely by the Supplier; and b) the Supplier may use or disclose the feedback for any purpose.

5.4 **Third party sites and material:** The Client acknowledges that the SaaS Service may link to third party websites or feeds that are connected or relevant to the SaaS Service. Any link from the SaaS Service does not imply any Supplier endorsement, approval or recommendation of, or responsibility for, those websites or feeds or their content or operators. To the maximum extent permitted by law, the Supplier excludes all responsibility or liability for those websites or feeds.

## 6. CONFIDENTIALITY

6.1 **Security:** Each party must, unless it has the prior written consent of the other party:


- A. keep confidential at all times the Confidential Information of the other party;



- B. effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access or use; and
- C. disclose the other party's Confidential Information to its personal or professional advisors on a need to know basis only and, in that case, ensure that any personal or professional advisor to whom it discloses the other party's Confidential Information is aware of, and complies with, the provisions of clause 7.



## 7. Liability

7.1 **Maximum liability:** The maximum aggregate liability of the Supplier under or in connection with the Agreement or relating to the Services, whether in contract, tort (including negligence), breach of statutory duty or otherwise, must not in any Year exceed \$400. 

7.2 **Unrecoverable loss:** Neither party is liable to the other under or in connection with the Agreement or the Services for any:

- A. loss of profit, revenue, savings, business, use, data (including Data), and/or goodwill; or
- B. consequential, indirect, incidental or special damage or loss of any kind.

7.3 **No liability for other's failure:** Neither party will be responsible, liable, or held to be in breach of the Agreement for any failure to perform its obligations under the Agreement or otherwise, to the extent that the failure is caused by the other party failing to comply with its obligations under the Agreement, or by the negligence or misconduct of the other party or its personnel.

7.4 **Mitigation:** Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with the Agreement.