

Terms of Service

MAX ANALYTICS TERMS OF SERVICE

Effective from: August 1st, 2020

By signing up for the Max Analytics service (“Service”) or any of the services of Max Evaluations & Analytics Inc. (“Max”) you are agreeing to be bound by the following terms and conditions (“Terms of Service”). This document is a legally binding agreement between you (and your client, employer or another entity if you are acting on their behalf) as the user of the Services (referred to as “you” or “your”) and Max (also referred to as “we”, “our” or “us”).

The Services offered by Max under the Terms of Service include various products and services to help you create, manage, and report skill assessments for amateur and professional athletes. Any new features or tools which are added to the current Service shall be also subject to the Terms of Service. You can review the current version of the Terms of Service at any time at <http://www.maxea.ca/terms-of-service> (<http://www.maxea.ca/terms-of-service>).

Max reserves the right to update and change the Terms of Service by posting updates and changes to the Max website. You are advised to check the Terms of Service from time to time for any updates or changes that may impact you.

You must read, agree with and accept all of the terms and conditions contained in this Terms of Service agreement and Max’s Privacy Policy before you may become a Max user.

Everyday language summaries are provided for convenience only and are not legally binding. Please read the “Terms of Service” for the complete picture of your legal requirements. By using Max or any Max services, you are agreeing to these terms. Be sure to occasionally check back for updates.

1. Account Terms

1 You must be 18 years or older or at least the age of majority in the jurisdiction where you reside or from which you use this Service.

2 To access and use the Services, you must register for a Max account (“Account”) by providing your full legal name, current address, phone number, a valid email address, and any other information indicated as required. Max may reject your application for an Account, or cancel an existing Account, for any reason, in our sole discretion.

3 You acknowledge that Max will use the email address you provide as the primary method for communication and you consent to receiving these emails for as long as we need to communicate.

4 You are responsible for keeping your password secure. Max cannot and will not be liable for any loss or damage from your failure to maintain the security of your Account and password.

5 You are responsible for all activity and content such as data, graphics, photos and links that is uploaded under your Max Account (“Account Content”). You must not engage in any of the Prohibited Practices set out at Section 14, including without limitation, transmitting any destructive code or materials.

6 breach or violation of any term in the Terms of Service as determined in the sole discretion of Max will result in an immediate termination of your services.

WHICH MEANS

Don't use Max for anything illegal or transmit any harmful code. Remember that with any violation of these terms we will cancel your service. If we need to reach you, we will send you an email.

2. Account Activation

1 Subject to section 2.2, the person signing up for the Service will be the contracting party ("Account Owner") for the purposes of our Terms of Service and will be the person who is authorized to use any corresponding account we may provide to the Account Owner in connection with the Service.

2 If you are signing up for the Service on behalf of your Association or Employer, your Association or Employer shall be the Account Owner. If you are signing up for the Service on behalf of your Association or Employer, then you represent and warrant that you have the authority to bind your Association or Employer to our Terms of Service.

WHICH MEANS

The person signing up for the Max Service is responsible for the account and is bound by these Terms of Service. If you sign up on behalf of your association or employer, your association or employer owns the account and is also bound by our Terms of Service.

3. General Conditions

You must read, agree with and accept all of the terms and conditions contained in these Terms of Service and the Privacy Policy (<http://maxea.ca/privacy-policy/>) before you may become a member of Max.

1 Technical support is only provided to paying Account holders and is only available via email.

2 The Terms of Service shall be governed by and interpreted in accordance with the laws of the Province of Manitoba and the laws of Canada applicable therein, without regard to principles of conflicts of laws. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Manitoba with respect to any dispute or claim arising out of or in connection with the Terms of Service. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms of Service and is hereby expressly excluded.

3 You acknowledge and agree that Max may amend these Terms of Service at any time by posting the relevant amended and restated Terms of Service on Max's website, available at <http://www.maxea.ca/terms-of-service> (<http://www.maxea.ca/terms-of-service>) and such amendments to the Terms of Service are effective as of the date of posting. Your continued use of the Services after the amended Terms of Service are posted to Max's website constitutes your agreement to, and acceptance of, the amended Terms of Service. If you do not agree to any changes to the Terms of Service, do not continue to use the Service.

4 You may not use the Max service for any illegal or unauthorized purpose nor may you, in the use of the Service, violate any laws in your jurisdiction (including but not limited to copyright laws) as well as the laws of Canada and the Province of Manitoba.

5 You agree not to reproduce, duplicate, copy, sell, resell or exploit any portion of the Service, use of the Service, or access to the Service without the express written permission by Max.

6 You shall not purchase search engine or other pay per click keywords (such as Google AdWords), or domain names that use Max or Max trademarks and/or variations and misspellings thereof.

7 Questions about the Terms of Service should be sent to support@maxea.ca (support@maxea.ca).

8 You understand that your Account Content (not including credit card information), may be transferred unencrypted and involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. Credit Card information is always encrypted during transfer over networks.

9 You acknowledge and agree that your use of the Service, including information transmitted to or stored by Max, is governed by its privacy policy at <http://maxea.ca/privacy-policy/>(<https://www.maxea.ca/privacy-policy>)

WHICH MEANS

The Max service belongs to us. You are not allowed to rip it off or use it for any illegal or sketchy purpose. If a dispute arises the issue will be dealt with in the Province of Manitoba.

Your content may be transferred unencrypted and may be altered, but credit card information is always encrypted.

4. Max Rights

1 We reserve the right to modify or terminate the Service for any reason, without notice at any time.

2 We reserve the right to refuse service to anyone for any reason at any time.

3 We may, but have no obligation to, remove Accounts containing content that we determine in our sole discretion are unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property or these Terms of Service.

4 Verbal or written abuse of any kind (including threats of abuse or retribution) of any Max customer, Max employee, member, or officer will result in immediate Account termination.

5 Max does not pre-screen Account Content and it is in our sole discretion to refuse or remove any Account Content that is available via the Service.

6 We reserve the right to provide our services to your competitors and make no promise of exclusivity in any particular market segment. You further acknowledge and agree that Max employees and contractors may also be Max customers/merchants and that they may compete with you, although they may not use your confidential information in doing so.

7 In the event of a dispute regarding Account ownership, we reserve the right to request documentation to determine or confirm Account ownership. Documentation may include, but is not limited to, a scanned copy of your business license, government issued photo ID, the last four digits of the credit card on file, etc.

8 Max retains the right to determine, in our sole judgment, rightful Account ownership and transfer an Account to the rightful owner. If we are unable to reasonably determine the rightful Account owner, Max reserves the right to temporarily disable an Account until resolution has been determined between the disputing parties.

WHICH MEANS

We can modify, cancel or refuse the service at anytime. In the event of an ownership dispute over a Max account, we can freeze the account or transfer it to the rightful owner.

5. Limitation of Liability

1 You expressly understand and agree that Max and its suppliers shall not be liable for any indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses resulting from the use of or inability to use the service or our site. If you are not a paying customer, you also expressly understand and agree that Max and its suppliers will not be liable for any direct damages, including without limitation, any of the foregoing matters. Where any liability on our part has not been excluded by the foregoing, in no circumstance will the total amount of our liability exceed the aggregate amount that you have paid to us in the six (6) months preceding any alleged breach by us of this agreement or of any other applicable legal obligations.

2 You agree to indemnify and hold us and (as applicable) our parent, subsidiaries, affiliates, Max partners, officers, directors, agents, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your breach of these Terms of Service or the documents it incorporates by reference, or your violation of any law or the rights of a third party.

3 Your use of the Service is at your sole risk. The Service is provided on an "as is" and "as available" basis without any warranty or condition, express, implied or statutory. These warranties are excluded to the maximum extent permitted by applicable law as are those that follow in Sections 5.4, 5.5 and 5.6.

4 Max does not warrant that the Service will be uninterrupted, timely, secure, or error-free.

5 Max does not warrant that the results that may be obtained from the use of the Service will be accurate or reliable.

6 Max does not warrant that the quality of any products, services, information, or other material purchased or obtained by you through the Service will meet your expectations, or that any errors in the Service will be corrected.

WHICH MEANS

We are not responsible if you break the law, breach this agreement or go against the rights of a third party, especially if you get sued. Service is "as is" so it may have errors or interruptions and we provide no warranties.

6. Waiver and Complete Agreement

The failure of Max to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service and our Privacy Policy constitute the entire agreement between you and Max and govern your use of the Service, superseding any prior agreements between you and Max (including, but not limited to, any prior versions of the Terms of Service).

WHICH MEANS

If Max chooses not to enforce any of these provisions at any time, it does not mean that they give up that right later. These terms of service make up the agreement that applies to you. This means that any previous agreements between you and Max don't apply if they conflict with these terms.

7. Intellectual Property and Customer Content

1 As between you and Max, Max is and will remain the exclusive unencumbered owner of the entire right including any Intellectual Property Rights in and to, the Service, as well as all software, systems and processes used in connection with the Service or its delivery. **"Intellectual Property Rights"** mean all worldwide intellectual or industrial property rights arising under statutory or common law or by contract (including any agreement, undertaking, understanding, arrangement, course of conduct or instrument) or treaty, now existing, subsisting or hereafter filed, issued, or acquired, including all: (a) patent rights and rights under patent applications; (b) copyrights, rights of or connected to authorship and moral rights, including copyright with respect to object code or source code; (c) rights relating to the protection of trade secrets, confidential information and know-how; (d) rights in trademarks, service marks, trade dress, trade names, and design patent rights, and (e) any right similar, analogous, related or ancillary to the foregoing and any other proprietary rights relating to intangible property or that may be the subject matter of an application to protect or preserve any intangible property. (f) From time to time, users of our Service may have suggestions or input that could lead to changes in the Service. Max is and will remain the exclusive unencumbered owner of any feedback, suggestions, proposals, modifications, extensions, additions, enhancements or improvements ("**Enhancements**") made by or in connection with a user relating to the Service or Max's provision or delivery of Services and you hereby irrevocably assign and transfer to Max all rights in and to all such Enhancements and hereby waive any moral rights you might otherwise have had with respect thereto. (g) You can remove your Max account at any time by deleting your Account. We reserve the right to continue to store and use the data you have uploaded after your account has been terminated, including data in respect of the amateur or professional athletes, whether in aggregate, anonymized or identifiable form, as well as to transfer the data to any third party company that acquires or becomes integrated with our business, whether through merger, acquisition, bankruptcy, dissolution, reorganization, or other similar transaction or proceeding.

2 By uploading Association or Franchise Account Content, you agree: (a) to allow other internet users to view your Association or Franchise Content; (b) to allow Max to display and store your Association or Franchise Content; and (c) that Max can, at any time, review all the Association or Franchise Content submitted by you to its Service.

3 By making your account public, you agree to allow others to view your Association or Franchise Content.

4 You are responsible for compliance of Association or Franchise Content with any applicable laws or regulations.

5 We will not disclose your confidential information to third parties, except as required in the course of providing our services. Confidential information includes any materials or information provided by you to us which is not publicly known. Confidential information does not include information that: (a) was in the public domain at the time we received it; (b) comes into the public domain after we received it through no fault of ours; (c) we received from someone other than you without breach of our or their confidentiality obligations; or (d) we are required by law to disclose.

WHICH MEANS

The IP associated with the Service remains ours. We respect your confidential information. You can terminate your account but we continue to have rights to store and use the data. If we are bought by another company, the data will get passed on to them.

8. Max Franchises Evaluators

1 Max Franchise Evaluators is an online directory of independent third parties (“Franchises”) that can help you conduct player evaluations using our service. Max does not employ Franchises and may not be affiliated with Franchises.

2 Max does not endorse franchises and takes no responsibility for any work performed by franchises or failure to fulfill a work order. Links to websites of franchises, announcements about services or offers, and responses to email inquiries regarding franchises, are provided solely for informational purposes at the discretion of Max and shall not be construed or imply permission, or an affiliation, position regarding any issue in controversy, authentication, appraisal, sponsorship, nor a recommendation or endorsement of any website, product, service, activity, business, organization, or person, and any offers, products, services, statements, opinions, content or information on any linked third-party website.

3 Under no circumstances shall Max be liable for any direct, indirect, incidental, special, consequential, exemplary or other damages whatsoever, including, without limitation, any direct, indirect, incidental, special, consequential, exemplary or other damages that result from any contractual relationship between you and the franchise. These limitations shall apply even if Max has been advised of the possibility of such damages. The foregoing limitations shall apply to the fullest extent permitted by law.

WHICH MEANS

Franchises are not employees of Max and we are not responsible for them.

9. Payment of Fees

1 For Association and Franchise account holders the service will be billed annually. When your billing period is over, the Account Owner will be sent an invoice via the email provided. As well, an invoice will appear on the Account page of your Max administration console.

2 For all other users and account holders, the products and services purchased will be billed at the time or purchase to your credit card.

3 All account holders have 10 business days to bring up and settle any issues with billing.

4 All fees are exclusive of applicable federal, provincial, state, local or other governmental sales, goods and services, harmonized or other taxes, fees or charges now in force or enacted in the future (“Taxes”).

5 If you are a resident of Canada, you are responsible for all applicable Taxes that arise from or as a result of your subscription to or purchase of Max’s products and services. These Taxes are based on the rates applicable to the Canadian billing address you provide to us. Such amounts are in addition to fees for such products and services and will be billed to the credit card you use to pay for the products and services. If you are exempt from payment of such Taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such a certificate.

6 If you are resident in the U.S., Taxes may apply to your account subscription and or to purchases of some or all of Max's products and services. Any applicable Taxes are based on the rates applicable to the U.S. billing address you provide to us, and will be calculated at the time of purchase of the applicable Taxable Offerings. Such amounts are in addition to fees for the Taxable Offerings and will be billed to the credit card you use to pay for the Taxable Offerings. If you are exempt from payment of such Taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such a certificate.

7 If you are not a resident of Canada or the U.S., and not subject to Canadian Goods and Services Tax/ Harmonized Sales Tax (GST/HST) in respect of your subscription to or purchase of Max's products and services, you must provide us with a statement by email to accounting@maxe.ca (<http://accounting@maxe.ca>) stating that: (i) you are not a resident of Canada or the U.S.; (ii) you are not GST/HST registered; and (iii) to the extent that you are an individual and not a corporation or other legal entity, you were not physically present in Canada when Max's products and services were made available to you. The statement should also include your complete home and/or business location address. If you do not provide such information, you will be charged for Taxes applicable to your subscription to or purchase of Max's products and services, which will be billed to your credit card until after such time that you provide us with the information described above. To the extent that you are an individual and not a corporation or other legal entity, and your location of usage changes to a place in Canada or the U.S., you must advise us immediately by email to accounting@maxe.ca (<http://accounting@maxe.ca>).

8 Max does not provide refunds.

WHICH MEANS

For live payment gateways, a valid credit card is required. Associations and or Franchises will be billed every 365 days and have 2 weeks to pay. If you're exempt from Canadian or U.S. taxes, let us know by giving us your original exemption certificate and we'll stop adding taxes to your bill.

No refunds.

12. Cancellation and Termination

1 You may provide notice of termination of your Account at anytime by emailing support@maxe.ca (support@maxe.ca) and then following the specific instructions indicated to you in Max's response.

2 Upon termination of the Services by either party for any reason:

- 1 Max will cease providing you with the Services and you will no longer be able to access your Account;
- 2 unless otherwise provided in the Terms of Service, you will not be entitled to any refunds of any fees, pro rata or otherwise;
- 3 any outstanding balance owed to Max for your use of the Services through the effective date of such termination will immediately become due and payable in full; and
- 4 your Association or Franchise page will be taken offline.

5 If at the date of termination of the Service, there are any outstanding fees owing by you, you will receive one final invoice via email. Once that invoice has been paid in full, you will not be charged again.

6 We reserve the right to modify or terminate the Max Service or your Account for any reason, without notice at any time.

5 Fraud: Without limiting any other remedies, Max may suspend or terminate your Account if we suspect that you (by conviction, settlement, insurance or escrow investigation, or otherwise) have engaged in fraudulent activity in connection with the Site.

WHICH MEANS

To initiate a cancellation, email support@maxea.ca (support@maxea.ca). Max will respond with specific information regarding the cancellation process for your account. If you cancel in the middle of your billing cycle, you'll have one last email invoice. We may change or cancel your account at any time. Any fraud and we will suspend or cancel your account.

13. Modifications to the Service and Prices

1 Prices for using the Services are subject to change upon 30 days notice from Max. Such notice may be provided at any time by posting the changes to the Max Site (Maxea.ca) or the administration menu of your Max store via an announcement.

2 Max reserves the right at any time, and from time to time, to modify or discontinue, the Service (or any part thereof) with or without notice.

3 Max shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

WHICH MEANS

We may change or discontinue the service at anytime, without liability.

14. Prohibited Practices

You must not engage in any of the following Prohibited Practices:

- (a) upload, deploy or transmit any viruses, worms, trojan horses, spyware or computer software code, time bombs, harmful and malicious data, or other undocumented programs which may inhibit use of the Service, or routines or devices designed to disable, damage, impair, erase, deactivate, or electronically repossess software or data, or otherwise any code or material of a destructive nature;
- (b) use or access the Service if you directly or indirectly compete or seek to directly or indirectly compete with Max;
- (c) use or access the Service for the purpose of monitoring or benchmarking its availability, performance or functionality, or for any purposes that are directly or indirectly competitive to the business of Max, such as showing the Service to any representative or agent of a company that competes, directly or indirectly, with Max;
- (d) license, sublicense, sell, resell, transfer, assign, distribute, rent access to, grant any rights to, or otherwise commercially exploit or knowingly make available to any third party the Service (or any part thereof) in any way;
- (e) modify or make derivative works based upon the Service (or any part thereof);
- (f) create Internet "links" to the Service or "frame" or "mirror" any part of the Service on any other server or wireless or Internet-based device;

- (g) copy, decompile, disassemble, reverse engineer, or otherwise attempt to modify, adapt, or create derivative works of any software, technology, or work of authorship underlying, within, or related to the Service (or any part thereof);
- (h) build or have built, or facilitate the building of, a product or solution using ideas, features, functions or graphics similar to the Service, or any part thereof;
- (i) use or launch robots, spiders, offline readers;
- (j) interfere with or disrupt the integrity or performance of the Service or the data contained therein;
- (k) attempt to gain access to the Service or its related systems or networks without express written authorization;
- (l) use or access the Service in any manner other than as expressly permitted in the applicable user documentation by Max;
- (m) copy any ideas, features, functions or graphics of the Service (or any part thereof);
- (n) share or allow use by more than one individual of authorized user accounts; or
- (o) impersonate another authorized user or provide false identity information to gain access to or use the Service.

WHICH MEANS, don't put bad stuff on our system, misuse it or mess with our rights as owner.

15. Question & Contact information

If you have any questions about our Terms of Service please contact us via email at support@maxea.ca (support@maxea.ca).