



## Terms of Use

### School Research Evaluation & Measurement Services (SREAMS)

## Introduction

Welcome to **SPAplatform**! We're excited to have you here, but before you start using **SPAplatform**, we do need you to look through and accept these terms. We've done our best to explain it all without using too much jargon, so it's clear what we expect from you and what you can expect from us.

To make things easier, you'll find summary paragraphs at the top of each section to give you a heads up on what's coming next.

These are your legal rights and obligations, so please do read everything. If you can't agree to our terms, then you can't use our services.

If you still have questions or comments after you've read these terms, please contact the **SPAplatform** help desk. We did make changes to our terms of use in April 2020.

Last updated on 15<sup>th</sup> April 2020

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## Joining and using SPAplatform

*In this section we explain how to subscribe to SPAplatform and use our services. When you see a word in bold, it will have the same corresponding meaning every time it's used within these terms.*

**1. You and SPAplatform:** When we say **you** or **your**, we mean both you and any entity or school you're authorised to represent. When we say **SPAplatform**, **we**, **our**, or **us**, we're talking about the **SPAplatform** software produced by School Research Evaluation & Measurement Services—SREAMS (Orchard Downs Pty. Ltd.) which is composed of up to three modules you pay fees for (**SPAstandard**, **SPAtracker** & **SPAmarkbook**)

**2. Our services:** Our **services** consist of all the services we provide now or in the future, including our online data analysis products and Professional Development.

**3. Creating a subscription:** When you create a **subscription** to use our services and accept these terms, you become a **subscriber**. If you're the subscriber, you're the one responsible for ensuring you or your organisation pay for your subscription.

**4. People invited to use SPAplatform:** An **invited user** is a person other than the subscriber who has been invited to use our services through a subscription. If you're an invited user, you must also accept these terms to use our services.

**5. User roles and access:** As a subscriber inviting others to use a subscription, you should understand the permissions you're granting to invited users. If you'd like to read more about user roles and levels of access, check out this [information](#) at SPAplatform Support.

**6. The right to use our services:** Whether you're a subscriber or an invited user, we grant you the right to use our services (based on your subscription type, your user role, and the level of access you've been granted) for as long as the subscriber continues to pay for the subscription, until the subscription is terminated, or—if you're an invited user—until your access is revoked.

**7. Subscriber role:** As a subscriber, you take responsibility for fully controlling how your subscription is managed and who can access it. For example:

- You control access to a subscription. You decide who's invited to use our services you've subscribed to and what kind of access the invited user has. You can change or stop that access at any time.
- You're responsible for resolving any disputes with any invited users over access to your subscription.
- You're responsible for all your invited users' activity.

**8. Rules:** Whatever your role, when you use SPAplatform, you agree to follow the rules outlined in the dos & don'ts section of this document. Please read them and make sure you understand what you should and shouldn't do.

**9. Your responsibilities:** You promise that you'll keep your information (including a current email address) up to date. You're responsible for providing true, accurate, and complete information and for verifying the accuracy of any information you provide our services. You're also responsible for protecting your username and password from getting stolen or misused. Our service has minimum password standards, but you will ensure that passwords are very strong and not easily guessable. The stronger the password, the better! For more on security in general, check out our security section of this document.

**10. When we introduce new or revised services:** Since we're always thinking about how to make SPAplatform the best it can be, we regularly expand our services. For new or updated services, there might be additional terms. We'll let you know what those terms are before you start using those services.

**11. What we own:** We own everything we've put into our services unless otherwise stated and excluding content owned by others. This includes rights in the design, compilation, and look and feel of our services. It also includes rights in all copyrighted works, trademarks, designs, inventions, and other intellectual property. You agree not to copy, distribute, modify, or make derivative works of any of our content or use any of our intellectual property rights in any way not expressly permitted by us within our software or distributed through our Professional

Development sessions. **What we don't own is your student data—that will always belong to you.** A user retains intellectual property rights to their own work created within and/or uploaded to the service

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## Pricing

***Unless you're in a free trial or other offer period, you'll need to pay for a subscription based on the pricing of your selected plan. The pricing details and other terms of your subscription are explained when you select your plan.***

**12. Trial subscriptions:** At times we may provide you with a free trial, based on the terms specified at the time. At the end of the trial period, you will be invoiced for the next licence period. If you choose to continue using our services after the trial, you'll need to pay the invoice. If you choose not to continue using our services following a trial, you will need to contact us, and we will void the invoice and terminate the subscription to the module/s. We may also delete your organisation's **SPAplatform** account.

**13. SPAplatform pricing plans:** Your use of our software services generally requires you to pay a yearly subscription fee based on the module/s you subscribe to and the number of students/teachers you have (the **subscription fee**). The **pricing plan** consists of the subscription and subscription fees we offered you, including invoicing, payment, auto-renewal, and cancellation terms. We may update or amend the pricing plan from time to time. The terms of the pricing plan form part of these terms. As with any other changes to our terms, changes to the pricing plan won't apply retroactively and, if we make changes and you're a subscriber, we'll make every effort to let you know. ([See the section on notifying you of changes.](#)). For information on how to change pricing plans, contact [support@sreams.com.au](mailto:support@sreams.com.au). Subscription fees are inclusive of transactional taxes where relevant (like GST), as reflected in the pricing.

**14. Notify us of changes in student numbers:** As many of our modules require us to bill you according to the number of students in your school, it is your responsibility to notify us when there has been a change in this number. Failure to do so will mean you have violated our terms. We will not provide refunds/pro-rated refunds if you have failed to notify us of a drop in student numbers prior to paying your new subscription fee. Please note we will periodically be auditing school student numbers using published Government documentation. Please check your invoice to ensure you are being invoiced correctly at each renewal of your subscription. If you believe your invoice does not reflect correct student numbers, please contact us at [support@sreams.com.au](mailto:support@sreams.com.au).

**15. Taxes for your use of our services:** You're responsible for paying all taxes associated with your use of our services wherever levied. Your responsibility includes withholding tax if it applies, unless we already process that withholding tax. We may collect geographical location information to determine your location, which may be used for tax purposes. This means location information you give us must be accurate for tax residency purposes.

**16. Additional services:** Depending on where you're based and how you use our services, you may be able to take advantage of additional services that SREAMS/SPAplatform offers—like Onsite & Offsite Professional Development. These might incur an additional fee that we'll let you know about when you engage in these services.

**17. Importance of timely payments:** In order to continue accessing our services, you need to make timely payments based on the pricing plan you selected. To avoid delayed or missed payments, please make sure we have accurate contact information. If we don't receive timely payments, we will suspend access to your subscription until the payment is made.

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## Data use and privacy

*SPAplatform uses your data to provide our services to you. Our [privacy notice](#) is an important part of these terms and describes in more detail how we deal with personal data, such as your name and email address.*

**18. Use of data:** When you enter or upload your data into our services, we don't own that data, but you grant us a licence to use, copy, transmit, store, analyse, and back up all data you submit to us through our services, including personal data of yourself and others, to: enable you to use our services; allow us to improve, develop and protect our services; create new services; communicate with you about your subscription; and send you information we think may be of interest to you based on your marketing preferences. User retains intellectual property rights to their own work created within and/or uploaded to the service.

**19. Use of your own personal data:** We respect your privacy and take data protection seriously. In addition to these terms, our [privacy notice](#) sets out in detail how we process your own personal data that you enter into SPAplatform, such as your name and email address.

**20. Use of personal data you enter about others:** Our [privacy notice](#) also sets out in detail how we process the personal data of others (such as your students & employees) such as their name, email address, student number identifiers, and assessment results.

**21. Anonymised statistical data:** When you use our services, we may create anonymised statistical data from your data and usage of our services, including through aggregation. Once anonymised, we may use it for our own purposes, such as to provide, test, and improve our services, to develop new services or product offerings, to identify business trends, and for other uses we communicate to you.

**22. Data breach notifications:** When we think there has been unauthorised access to personal data inside your subscription, we'll let you know and give you information about what has happened. Depending on the nature of the unauthorised access and the location of your affected contacts, you may be required to assess whether the

unauthorised access must be reported to the contact and/or a relevant authority. We think you're best placed to make this decision because you'll have the most knowledge about the personal data stored in your subscription.

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## Confidential information

*We take reasonable precautions to protect your confidential information and expect that you'll do the same for ours.*

**23. Keeping it confidential:** While using our services, you may share confidential information with us, and you may become aware of confidential information about us. You and we both agree to take reasonable steps to protect the other party's confidential information from being accessed by unauthorised individuals. You or we may share each other's confidential information with legal or regulatory authorities if required to do so.

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## Security

*We take security seriously, and you should too!*

**24. Security safeguards:** We've invested in technical, physical, and administrative safeguards to do our part to help keep your data safe and secure. Read more about these measures in our [Security Measures](#) documentation. While we've taken steps to help protect your data, no method of electronic storage is completely secure, and we cannot guarantee absolute security. We will notify you if there appears to be unauthorised access to your account, and we may also restrict access to certain parts of our services until you verify the access was by an authorised user.

**25. Playing your part to secure your data:** You have an important part to play by keeping your login details secure, not letting any other person use them, and by making sure you have strong security on your own systems. If you realise there's been any unauthorised use of your password or any breach of security to your account or email address linked to your account, you need to let us know immediately.

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## Maintenance, downtime, and data loss

*We really try to minimise any downtime, but sometimes it's necessary so we can keep our services updated and secure. You also may have occasional access issues and may experience data loss, so backing up your data is important.*

**26. Availability:** We strive to maintain the availability of our services and provide online support during business hours. On occasion, we need to perform maintenance on our services, and this may require a period of downtime. We try to minimise any such downtime. Where planned maintenance is being undertaken, we'll attempt to notify you in advance but can't guarantee it.

**27. Access issues:** You know how the internet works—occasionally you might not be able to access our services and your data. This might happen for any number of reasons, at any time.

**28. Data loss:** Data loss is an unavoidable risk when using any technology. You're responsible for maintaining copies of your data entered into our services. For information on how to do that, check out this article on [downloading & deleting data within SPAstandard](#).

**29. No compensation:** Whatever the cause of any downtime, access issues or data loss, your only recourse is to discontinue using our services.

**30. Problems and support:** If you have a problem, we have excellent support articles available through [SPAplatform Help](#) that should help you with most situations. If you've tried [SPAplatform Help](#) and still need help, you can find more information about support for our services on our 'contact us' website page [here](#).

**31. Modifications:** We frequently release new updates, modifications and enhancements to our services, and in some cases discontinue features. Where this occurs, we'll endeavour to notify you where practical (for example, by email, newsletter, or within our services when you log in).

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## Do's and Don'ts

*This section is important because it outlines how you can (and can't) use our services. Much of it will be common sense.*

**32. Feedback:** We love your feedback and may use it without restriction.

**33. Help using our services:** We provide a lot of guidance and support to help you use our services. You agree to use our services in line with the instructions and guidance we provide.

**34. Limitations:** Some of our services may be subject to limits such as a cap on the number of active students you have (based on the **pricing plan**).

**35. Notify us of changes in student numbers:** As many of our modules require us to bill you according to the number of students in your school, it's important that you let us know when there has been a change in the number of students in your school. Failure to do so will mean you have violated our terms.

**36. While we can't cover everything here, we do want to highlight a few more examples of things you mustn't ever do:**

- Undermine the security or integrity of our computing systems or networks.
- Use our services in any way that might impair functionality or interfere with other people's use.
- Access any system without permission.
- Introduce or upload anything to our services that includes viruses or other malicious code.

- Store anything that may be offensive, violates any law, or infringes on the rights of others.
  - Modify, copy, adapt, reproduce, disassemble, decompile, reverse engineer, or extract the source code of any part of our services.
  - Resell, lease, or provide our services in any way not expressly permitted through our services.
  - Repackage, resell, or sublicense any leads or data accessed through our services.
  - Commit fraud or other illegal acts through our services.
  - Act in a manner that is abusive or disrespectful to a **SPAplatform** employee, partner, or other **SPAplatform** customer. We will not tolerate any abuse or bullying of our **SPAplatform** employees in any situation, and that includes interaction with our support teams.
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## Termination

***You can terminate your subscription with 30 days written notice. We may terminate your subscription as well with the same notice. If you violate these terms, we may terminate your subscription immediately.***

**37. Subscription period:** Your subscription continues for the period covered by the subscription fee paid or payable. At the end of each billing period, these terms automatically continue for a further period of the same duration as the previous one, provided you continue to pay the subscription fee in accordance with the pricing plan. You may choose to terminate your subscription by providing 30 days written notice in advance of a subscription period ending. You'll still need to pay all relevant subscription fees up to and including the day of termination. To terminate your subscription, please contact [info@sreams.com.au](mailto:info@sreams.com.au).

**38. Termination by SPAplatform:** SPAplatform may choose to terminate your subscription at any time by providing you with one month's written notice in advance. SPAplatform may also terminate or suspend your subscription or access to all or any data immediately if:

- you violate any of these terms and do not remedy the violation within 14 days after receiving notice of the violation,
- you violate any of these terms, and the violation cannot be remedied,
- you fail to pay subscription fees. (Written notice is provided by us through the invoice sent to your subscriber 30 days prior to the end of the subscription period.)

**39. No refunds:** No refund is due to you if you terminate your subscription or SPAplatform terminates it in accordance with these terms. Your SPAplatform account will remain active until the end of your subscription period, at which point the licences will be terminated.

**40. Retention of your data:** Once a subscription is terminated by you or us, it is archived, and the data submitted or created by you is no longer available to you. We retain it for a period of time consistent with our data retention policy (see our [Security Measures](#) documentation), during which, as a subscriber, you can reactivate your

subscription and once again access your data by paying the subscription fees. Contact us to find out more. We retain data in case you need it as part of your record retention obligations, but you can get in touch with us to have your data removed completely if you wish.

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## Liability and indemnity

***This section is important as it outlines liability terms between us and both subscribers and invited users, so we urge you to read it closely and in full.***

**41. You indemnify us:** You indemnify us against all losses, costs (including legal costs), expenses, demands, or liability that we incur arising out of, or in connection with, a third-party claim against us relating to your use of our services or any third-party product (except as far as we're at fault).

**42. Disclaimer of warranties:** Our services are made available to you on an "as is" basis. Subject to the consumer law terms in section 55, we disclaim all warranties, express or implied, including any implied warranties of non-infringement, merchantability, and fitness for a particular purpose.

**43. Limitation of liability:** Other than liability that we can't exclude or limit by law, our liability to you in connection with our services or these terms, in contract, tort (including negligence) or otherwise, is limited as follows:

- We have no liability arising from your use of our services for any loss of goodwill, loss of customers, legal issues, damage to reputation, loss in connection with any other contract, or indirect, consequential, incidental, punitive, exemplary, or special loss, damage, or expense.
- For loss or corruption of your data, our liability will be limited to taking reasonable steps to try and recover that data from our available backups.
- Our total aggregate liability to you in any circumstances is limited to the total amount you paid us for your subscription in the 12 months immediately preceding the date on which the claim giving rise to the liability arose.

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## Disputes

***This section outlines how disputes may be resolved.***

**44. Dispute resolution:** Most of your concerns can be resolved quickly and to everyone's satisfaction by contacting us through [support@sreams.com.au](mailto:support@sreams.com.au). If we're unable to resolve your complaint to your satisfaction (or if we haven't been able to resolve a dispute we have with you after attempting to do so informally), you and we agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction. You and we agree that any dispute must be brought in the parties' individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding.

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## Important housekeeping

*Here we set out some additional terms. Take a read, as they cover important issues.*

**45. Events outside our control:** We do our best to control the controllables. We aren't liable to you for any failure or delay in performance of any of our obligations under these terms arising out of any event or circumstance beyond our reasonable control.

**46. Notices:** Any notice you send to **SPAplatform** must be sent to [info@SPAplatform.com.au](mailto:info@SPAplatform.com.au). Any notices we send to you will be sent to the email address you've provided us through your subscription.

**47. Consumer laws:** In some places, there may be non-excludable warranties, guarantees, or other rights provided by law (**non-excludable consumer guarantees**). They still apply—these terms do not exclude, restrict, or modify them. Except for non-excludable consumer guarantees and other rights you have that we cannot exclude, we're bound only by the express promises made in these terms. Our liability for breach of a non-excludable consumer guarantee is limited, at our option, to either replacing or paying the cost of replacing the relevant service (unless the non-excludable consumer guarantee says otherwise).

**48. Excluded terms:** The terms of the United Nations Convention on Contracts for the Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) do not apply to these terms.

**49. Blocking your access, disabling your subscription, or refusing to process a payment:** We may block your access, terminate your subscription, or refuse to process a payment if we reasonably believe there's a risk—like a potential breach of a law or regulation—associated with you, your organisation, your subscription, or a payment.

**50. Relationship between the parties; assignment:** Nothing in these terms is to be construed as constituting a partnership, joint venture, employment, or agency relationship between you and us, or between you and any other subscriber or invited user. You are solely responsible for resolving disputes between you and any other subscriber or invited user. We may assign these terms—or any of our rights or obligations in these terms—to another of our company entities as we deem appropriate. Our entities are companies controlled by or under common control of Orchard Downs Pty. Ltd.

**51. Changes to these terms:** We sometimes will decide to change these terms of use. But don't worry: changes won't apply retroactively and, if we make changes, we'll make every effort to let you know. You can keep track of changes to our terms by referring to the version and the date last updated at the top of the terms. Generally, we endeavour to provide you with 30 days' notice of material changes before they become effective, unless we need to make immediate changes for reasons we don't have control over. When we notify you, we'll do it by email or by posting a visible notice through our services. If a change isn't material, we may not

notify you. If you find a modified term unacceptable, you may terminate your subscription by giving the standard advance notice to **SPAplatform**.

**52. Enforcement of terms:** If there's any part of these terms that either one of us is unable to enforce, we'll ignore that part, but everything else will remain enforceable.

**53. Interpretation:** Words like 'include' and 'including' are not words of limitation and where anything is within our discretion, we mean our sole discretion.

**54. Use of Curriculums:** At times we will import educational curriculums into our software. Please note we have an obligation to notify you that the various curriculum authorities do not endorse or make any warranties towards our products.

***The Victorian Curriculum F-10 Content***

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You've now read our terms.

If you have any questions about these terms, please contact us at [info@sreams.com.au](mailto:info@sreams.com.au).