

Terms of Service (last updated 27 June 2025)

Welcome to the Services of Sound Scouts HQ Pty Ltd ABN 27 618 769 967. (“**Sound Scouts**,” “**we**,” or “**us**”). These terms of service (these “**Terms**”) explain the terms by which Customers, Authorised Users (as defined below) and any other user (collectively “**You**” and as applicable to the context) may use our online and/or mobile services, website and software provided on or in connection with the service and including the Sound Scouts Integrated Management Platform (known as SSIMPL), the Sound Scouts Hearing Test App for mobile devices (regardless of which platform it has been sourced from) and the Sound Scouts APD Service and any other software service provided by us (collectively, the “**Services**”). You agree that You have read, understood and agree to be bound by these Terms (the “**Agreement**”), whether or not You are a registered user of our Services. Sound Scouts reserves the right to modify these Terms and will provide notice of material changes as described below.

Please read these Terms carefully to ensure that You understand each provision. Where You are located in the United States of America or claim in any way to be bound by any jurisdiction of or associated with the United States of America these Terms incorporate additional or substituted requirements which are detailed in Schedule 1.

Notwithstanding the foregoing, nothing in these terms supersedes or limits Your rights under (1) the terms and conditions of any written agreement You or Your institution have entered into with Sound Scouts regarding the use of Services, or (2) applicable laws or regulations to the extent these terms are prohibited by such laws or regulations. In the event of any conflict between these terms and the terms and conditions of an applicable written agreement You or Your institution have entered into with Sound Scouts, the terms and conditions of the written agreement shall apply.

If You subscribe to, or access or use the Services, create an account for Your organisation (“**Organisation Account**”), invite users to that Organisation Account, or use or allow use of that Organisation Account after being notified of a change to these Terms, You acknowledge Your understanding of the then-current Agreement and agree to the Agreement on behalf of Customer, and Authorised Users. You warrant that, if You agree on behalf of Customer or Authorised User, You have the necessary authority to enter into the Agreement on behalf of Customer or Authorised User before proceeding.

1. General Provisions

1.1 Eligibility

This is a contract between You and Sound Scouts. You must read and agree to these Terms before using the Services. If You do not agree, You may not use the Services. You may use the Services only if You can form a legally binding contract with us and only in compliance with these Terms and all applicable local, state, national and international laws, rules and regulations (“**Applicable Law**”).

Customers are responsible for all Authorised Users’ activities involving the Services where the Authorised Users were established by or relate to the Customer and for ensuring that those Authorised Users agree to these Terms. The Services are not available to any users we previously removed from the Services.

1.2 Customers, Authorised Users and User Content

“**Customer**” means any person or entity who orders, attempting to order or otherwise procure or attempt to procure the Services by any means for access or use, directly or indirectly, of the Services by any person (“**Credit**”) and includes the school, school district, school governing body, local authority, government department, clinic, organisation, person or other body authorised to enter into agreements for the supply of a Credit or Credits for Authorised Users (defined below) to use the Services, in each case that You represent in agreeing to the Agreement. If Customer’s Organisation Account is being set up by someone who is not formally affiliated with a business entity or other organisation, Customer is the individual creating the organisation. If You signed up for a plan on behalf of a business entity or other organisation, the business entity or other organisation on whose behalf You signed up is the Customer. By signing up on behalf of Your business entity or other organisation, You represent and warrant that You have all right, power and authority to bind such entity or organisation to the Agreement.

“**Authorised User**” includes any person being tested on the Services, whether or not they have been issued a Credit and whether or not they click a button or check a box marked “I Agree” (or something similar) and which may include a child or an adult in either a clinical setting or a non-clinical setting (“**Client/Player**”), any person directing or supervising a Client/Player in the use of the Services (“**Supervisor**”) and any person for whom Customer provides access or accounts to the Services (including but not limited to employees, faculty and administrators) as a part of Customer’s permitted use and

implementation of the Services. Customer will be solely responsible for all of the acts and omissions of its Authorised Users in relation to the Services and the Agreement

You may provide content through the Services that consists of information, documents, spreadsheets and any other content submitted, posted, or otherwise made available by You through the Services (“**User Content**”) and Customer will have the sole right and responsibility for managing use of all User Content of its Authorised Users.

Customer will (i) inform Authorised Users of all Customer policies and practices that are relevant to their use of the Services and of any settings that may impact the processing of User Content; (ii) ensure that all Authorised Users agree to and comply with these Terms and (iii) obtain all rights, permissions or consents from Authorised Users and other Customer personnel that are necessary to grant the rights and licenses in the Agreement and for the lawful use and transmission of User Content and Customer’s and the Authorised Users’ use of the Services.

1.3 Accounts

- (a) Your User Account. Your accounts on the Services (“**User Account**”) gives You access to certain services and functionalities that we may, in our sole discretion, establish and maintain as part of the Services from time to time. We may maintain different types of User Accounts for different types of users.
- (b) Connecting Via Third-Party Services. The Services may allow for integrations with third-party apps or tools to provide certain features. When using integrations with third-party services, You acknowledge that You will be governed by their terms. By connecting to the Services via a third-party service, You give us permission to access and use Your and Your Authorised Users’ information from that service, as permitted by that service and to store log-in credentials and/or access tokens for that service.
- (c) Account Security. You may never use another user’s User Account without such user’s permission. When creating a User Account, You must provide accurate and complete information and You must keep this information up to date. You are solely responsible for the activity that occurs on Your User Account and (where applicable) the User Accounts of Your Authorised Users, and You will keep User Account password(s) and/or any other authentication credentials secure and You will not share password(s) and/or any other authentication credentials with anyone else. We encourage You to use “strong” passwords (passwords that use a combination of upper- and lower-case letters, numbers

and symbols) to protect Your User Account. Any User with administrator-level access to a Customer's Organisation Account can modify the Organisation Account settings, information, access and billing information. We will not be liable for and expressly disclaim liability for, any losses caused by any unauthorised use of Your User Account and/or any changes to Your or (where applicable) any of Your Authorised Users' User Account, including, without limitation, changes made by any person with administrator-level access to Your Organisation Account. You will notify us immediately of any breach of security or unauthorised use of Your User Account.

- (d) Account Settings. You may control certain aspects of Your User Account and any associated user profile and of the way You interact with the Services by changing the information in Your User Account. By providing us with Your email address, You agree to our using that email address to send You Service-related notices, including any notices required by Applicable Law, in lieu of communication by postal mail. We may also use that email address to send You other messages, including, without limitation, marketing and advertising messages, such as messages notifying You of changes to features of the Services and special offers (collectively, "**Marketing Emails**") in accordance with Your preferences and subject to any restrictions under applicable law. If You do not want to receive Marketing Emails, You may opt out of receiving them at any time or change Your preferences on the services, by contacting the Services support team at contact@soundscouts.com.au or by clicking on the "unsubscribe" link within a Marketing Email. Opting out will not prevent You from receiving Service-related notices.

1.4 Account Creation

Only Customers are permitted to issue a Credit to an Authorised User to use the Services.

Once Customer has created an Organisation Account and Authorised Users are attached, Supervisors can add Client/Players to the organisation.

Authorised Users must enter a correct email address for the purpose of creating an account.

When Client/Players are added, You represent and warrant that:

- The Client/Player year and month of birth are correct

- All Client/Player information entered is in accordance with the Customer's policies concerning entry of personal information
- You will take all reasonable measures to protect access to user's data accessible through the Services

1.5 Changes, Suspension and Termination. You may de-activate Your Organisation Account or User Account at any time. We may, with or without prior notice, change the Services, stop providing the Services or features of the Services to You, to any Customer or Authorised Users, or to users generally, or create usage limits for the Services. We may, with or without prior notice, permanently terminate or temporarily suspend Your access to Your Organisation Account or any Authorised Users' User Accounts and/or the Services without liability, with or without cause and for any or no reason, including if, in our sole determination, You or any of Your Authorised Users, as applicable, violates any provision of these Terms. Upon their termination for any reason or no reason, You continue to be bound by these Terms.

1.6 Your Interactions with Other Users. You are solely responsible for Your and Your Authorised Users' interactions, including sharing of information, with other users. We reserve the right, but have no obligation, to monitor disputes between Customer, Authorised Users and other users. We expressly disclaim all liability arising from Customer's interactions with other users and for any Authorised User's action or inaction, including relating to User Content.

1.7 Beta Products

Occasionally, we look for beta testers to help us test our new features. These features will be identified as "beta" or "pre-release," or words or phrases with similar meanings (each, a "**Beta Product**"). Beta Products are made available on an "as is," and "as available" basis and, to the extent permitted under applicable law, without any warranties, liabilities, or contractual commitments we make for other Services.

1.8 Feedback

You may choose to, or we may invite You to, submit comments or ideas about the Services, including without limitation about how to improve the Services or our products ("**Feedback**"). By submitting any Feedback, You agree that Your disclosures are gratuitous, unsolicited and without restriction and will not place us under any fiduciary or other obligation and You hereby assign (and where applicable You will procure that all Authorised Users assign) all right, title and interest in and to the Feedback without any additional compensation by us, whether to Customer, the Authorised User, or anyone else and/or to disclose the Feedback on a non-confidential basis or otherwise to

anyone. You further acknowledge that, by acceptance of the submission, we do not waive any rights to use similar or related ideas previously known to us, or developed by our personnel, or obtained from sources other than Customer or Authorised Users.

2. Services Usage and Restrictions

2.1 Our License to You

- (a) Ownership of the Services, Documentation and Derivative Data. We (and our licensors) own and will continue to own our Services and Documentation (as defined below) including all related intellectual property and other proprietary rights related thereto. Further, You acknowledge and agree that we may collect data relating to Your and (where applicable) Your Authorised Users' usage of the Services, including but not limited to log data related to Your and (where applicable) Your Authorised Users' access to and use of the Services and the devices used to access and use the Services ("**Usage Data**") and collect, analyse and use data derived from User Content that has been aggregated and/or anonymised such that it does not identify Customer, Authorised User, or any identifiable individual person ("**Derivative Data**"). All Derivative Data will be owned solely and exclusively by us and, for purposes of clarity, You agree that we may use the Derivative Data in perpetuity for any purpose permitted by applicable law. We may, from time to time, make available certain third-party products and services, including but not limited to open-source software ("**Third-Party Products**") for use in connection with the Services. Such Third-Party Products may be made available under separate or additional terms and conditions, including but not limited to open-source licenses, which we will make available to You as necessary.
- (b) Rights for Research. In addition to and separate from our ownership of the Services, Documentation and Derivative Data described in cl 2.1(a), You license in perpetuity Sound Scouts, its related parties and any research partner we nominate ("**Research Partner**") to use all data relating to Your and (where applicable) Your Authorised Users' usage of the Services for research purposes, including but not limited to Usage Data and Derivative Data.
- (c) Licenses to the Services and Documentation. During the Term (as defined below), we grant to Customer a non-exclusive, non-transferable, revocable license to access and use and to permit Authorised Users to access and use the Services, in accordance with the Agreement, for Your own purposes. To the extent that we may make downloadable software components available, via app

stores or other channels, as part of the Services, during the Term, we grant to You a non-sublicensable, non-transferable, non-exclusive, revocable, limited license for You and Authorised Users to use the object code version of these components, but solely as necessary to use the Services. Minor updates, bug fixes and the like to such downloadable software components will be included under this license for the duration of the Term. From time to time we may make available product documentation for the Services (the “**Documentation**”) via a method of our choosing (*e.g.*, via the Services). During the Term, we grant to You a non-sublicensable, non-transferable, non-exclusive, revocable, limited license for You and Your Authorised Users to use the Documentation to support Your and Your Authorised Users’ use of the Services. All rights and licenses granted herein are subject to Your and Your Authorised Users’ full compliance with all of the terms and conditions of the Agreement. All rights in the Services and Documentation not expressly granted herein are expressly reserved by us.

2.2 Licenses to Us

- (a) Ownership of User Content. As between us on the one hand and You on the other, You will own all User Content.
- (b) License to User Content. Subject to the terms and conditions of the Agreement, You represent and warrant that You have all rights necessary to grant (including any necessary consents and authorizations from individual persons identified in the User Content and licenses from third-parties whose content is included in the User Content), to us a royalty-free, sublicensable, transferable, perpetual, irrevocable, worldwide, non-exclusive, license to access, use, host, store, reproduce, modify, publish, list information regarding, translate, process, copy, distribute, perform, export, display and make derivative works of all User Content in whole or in part and in any form, media, or technology, whether now known or hereafter developed, (i) to provide, improve, enhance, develop, maintain and offer products or services; (ii) to prevent or address service, security, support or technical issues; (iii) as required by law; and (iv) as expressly permitted in writing by You. Customer represents and warrants that it has secured all rights in and to User Content from its Authorised Users or any third parties as may be necessary to grant this license. Notwithstanding the foregoing, You agree that we may collect, analyse, use and disclose, during or after the Term (as defined below), data derived from User Content, which is anonymised and/or aggregated in a manner that makes the identification of Customer or (where applicable) any Authorised User or third party impossible, for

any business purpose, including without limitation, to operate, analyse, improve and market the Services and our other products and services and share such anonymised data with our affiliates and business partners. You further agree that we will have the perpetual right to use, store, transmit, distribute, modify, copy, display, sublicense and create derivative works of such derived data. To the extent permitted under applicable law, we take no responsibility and assume no liability for any User Content that Customer or any Authorised User or third-party submits, posts, or otherwise makes available through the Services. As between You and us, You shall be fully responsible for Your (including (where applicable) Your Authorised Users') User Content and the consequences of submitting, posting, or otherwise making it available via the Services and You acknowledge and agree that we are acting only as a passive conduit for Customer's and Authorised Users' online distribution of such User Content.

2.3 Responsibilities for User Content

We are not responsible for the content of any User Content or the way Customer or Authorised Users choose to use the Services to store or process any User Content. You represent and agree that You are solely responsible for (i) providing notices and obtaining consents as legally required for the collection, use, processing and transfer of User Content in connection with the Services; and (ii) ensuring compliance with all laws in all jurisdictions that may apply to User Content provided hereunder, including but not limited to all applicable international, federal, state, provincial and local laws, rules and regulations relating to data privacy and security. We do not make any representations as to the adequacy of the Services to process Your User Content or to satisfy any legal or compliance requirements which may apply to Your User Content, other than as described herein.

2.4 Use of the Services

Customer must comply with the Terms and ensure that all its Authorised Users comply with these Terms. We may review conduct for compliance purposes, but we have no obligation to do so. If we believe there is a violation of the Terms that can be remedied by removal of certain User Content, we will, in most cases, ask You to take direct action rather than intervene. However, to the extent legally permissible, we reserve the right to take further appropriate action, when we deem it reasonably appropriate if You do not take appropriate action, or if we believe there is a credible risk of: (i) harm to us, the Services, other users, or any third parties; or (ii) infringement of a third party's intellectual property rights.

2.5 Acceptable Use

- (a) Technical Restrictions. You agree not to engage in any of the following prohibited activities: (i) disassembling, reverse engineering, decoding, or decompiling any part of the Services; (ii) copying, distributing, or disclosing any part of the Services in any medium, including without limitation by any automated or non-automated “scraping”; (iii) using any automated system, including without limitation “robots,” “spiders,” “offline readers,” etc., to access the Services in a manner that sends more request messages to the servers hosting the Services than a human can reasonably produce in the same period of time by using a conventional on-line web browser; (iv) transmitting spam, chain letters, repetitive messages, or other unsolicited advertising or marketing email, messages or content; (v) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (vi) taking any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure; (vii) uploading invalid data, viruses, worms, or other software agents through the Services; (viii) collecting or harvesting any personally identifiable information, including account names, from the Services; (ix) using the Services for any commercial solicitation purposes; (x) impersonating another person or otherwise misrepresenting Your affiliation with a person or entity, conducting fraud, hiding or attempting to hide Your identity; (xi) interfering with the proper working of the Services; (xii) using or displaying the Services in competition with us, to develop competing products or services, for benchmarking or competitive analysis of the Services, or otherwise to our detriment or disadvantage; (xiii) accessing any content on the Services through any technology or means other than those provided or authorised by the Services; (xiv) identify or refer to us or to the Services in a manner that could reasonably imply a relationship that involves endorsement, affiliation, or sponsorship between You (or a third party) and us without our prior express written consent; or (xv) bypassing the measures we may use to prevent or restrict access to the Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or the content therein.
- (b) User Content Restrictions. You are solely responsible for the content of any User Content You submit through the Services. You agree not to submit any User Content that: (i) may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness to

You, to any other person, or to any animal; (ii) may create a risk of any other loss or damage to any person or property; (iii) seeks to harm or exploit children by exposing them to inappropriate content or otherwise; (iv) may constitute or contribute to a crime or tort; (v) contains any information or content that we deem to be unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, profane, obscene, or otherwise objectionable; (vi) contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets); (vii) contains any information or content that You do not have a right to make available under any law or under contractual or fiduciary relationships; (viii) contains any information or content that You know is not correct and current; or (ix) to the extent applicable, violates any school/clinic or other applicable policy, including those related to cheating or ethics. You agree that any User Content that You submit does not and will not violate third-party rights of any kind, including without limitation any intellectual property rights or rights of privacy or publicity. To the extent legally permissible, we reserve the right, but are not obligated, to reject and/or remove any User Content that we believe, in our sole discretion, violates any of these provisions. You understand that entering or publishing Your User Content on the Services is not a substitute for registering it with the U.S. Copyright Office, the Writer's Guild of America, or any other rights organisation. We reserve the right, but have no obligation, to monitor communications transmitted through the Services. We shall have no liability whatsoever for Your interactions with other users (including with Authorised Users), or for any user's action or inaction.

3. Payment Obligations

3.1 Billing Policies; Taxes. Certain aspects of the Services may be provided for free, while certain other aspects of the Services may be provided for a fee or other charge ("**Fee**"). By electing to use non-free aspects of the Services, Customer agrees to the pricing and payment terms applicable to Customer and as described in the payment platform prior to purchase (where applicable), and in any invoice following purchase. The type of plan identified in Customer's Invoice will determine the payment terms that apply to Customer's subscription. We may add new products and/or services for additional Fees, add or amend Fees for existing products and/or services and/or discontinue offering certain aspects of the Services at any time, in our sole discretion; provided, however, that if we have agreed to a specific Term and a corresponding Fee,

then that will remain in force for that Fee during that Term unless otherwise provided in the Invoice Except as may be expressly stated in these Terms or in the Invoice, all Fees must be paid in advance, payment obligations are non-cancellable once incurred (subject to any cancellation rights set forth in these Terms) and Fees paid are non-refundable. If You are resident in Australia then all Fees will have Goods and Services Tax added as indicated at the time. If You are resident in any jurisdiction other than Australia or the United States of America then the normal process of taxes for Your jurisdiction applies. Customer will be responsible for paying all Taxes associated with its purchases in connection with the Services.

3.2 Your Payment Method

- (a) General. To purchase Credits for Authorised Users and to use non-free aspects of the Services, Customer must provide to us a valid, and where applicable for subscriptions, ongoing payment method (“Payment Method”) which we may determine from time to time which may include (but is not limited to) any of: (i) the accepted payment method and terms used in either the Google App Store or the Apple App store or the Microsoft Store; (ii) invoice from Sound Scouts with stated payment method and terms; at least one (1) current, valid payment card that is accepted by us and the third-party payment processor we use, currently Stripe, Inc., which we engage to process payments Customers make in connection with the Services (“Payment Processor”).
- (b) Authorisation. By providing a Payment Method, Customer authorises each of Sound Scouts and Payment Processor to charge that Payment Method the applicable Fees and Taxes, including, if applicable, on a recurring basis until Customer cancels its plan under the applicable Invoice. Fees and Taxes will be charged to Customer’s Payment Method on the specific payment date indicated on the Customer’s Invoice. In some cases, Customer’s payment date may change, for example, if its Payment Method has not successfully settled, if Customer changed its plan, or if the term of the invoice began on a date not contained in a subsequent term. The length of Customer’s billing cycle will depend on the terms specified in the invoice. Fees are fully earned upon payment. We may authorise Customer’s Payment Method in anticipation of Service-related charges through various methods, including authorizing it up to one (1) month of service as soon as Customer registers for the Services. If Customer is granted terms stated in an invoice, all fees are due on receipt of invoice or as stated otherwise.

- (c) Third-Party Payment Processor. We or Payment Processor will attempt to verify Customer's Payment Method(s) and may do so by processing an authorisation hold, which is standard practice. To the extent Payment Processor processes payments made by Customer, Customer will be subject to terms and conditions governing the use of Payment Processor's service. Please review such terms and conditions as well as Payment Processor's privacy notice (each of which is available on Payment Processor's website). Customer acknowledges and understands that Payment Processor may collect and retain third-party Fees whenever Customer pays Fees. Payment must be received by Payment Processor before our acceptance of an order. We do not view or store Customer's full credit card or other Payment Method information. For all payments, Payment Processor will collect Customer's Payment Method details and charge its chosen Payment Method in connection with an order. If any of Customer's account, order, or Payment Method information changes, Customer will promptly update such information, so that we or Payment Processor may complete Customer's transaction(s) and/or contact Customer, as needed.
- (d) Payment Representations and Warranties. Customer represents and warrants that: (i) the account, order and Payment Method information it supplies to us and/or to Payment Processor, as applicable, is true, accurate, correct and complete; (ii) it is duly authorised to use the Payment Method(s); (iii) it will pay any and all charges incurred by users of its Payment Method in connection with the Services, including any applicable Fees (at the prices in effect when such charges are incurred) and Taxes; (iv) charges incurred by Customer will be honoured by its Payment Method company; (v) Customer will not allow or enable anyone else to use its User Account (including, without limitation, by sharing its password(s) or any other authentication credentials with anyone else, or by attempting to transfer its plan or User Account to anyone else); and (vi) Customer will report to us any unauthorised or prohibited access to or use of its User Account and/or password(s) or other authentication credentials.
- (e) Disclaimer. We disclaim any and all liability with respect to and Customer understands and acknowledges that we are not responsible for: (i) any security or privacy breaches related to Customer's credit card or other payment method, (ii) any fees that may be charged to Customer by its bank in connection with the collection of fees and/or (iii) any unauthorised use of Customer's credit card, debit card, or other payment method by a third party.

3.3 Sound Scouts APD Suite Subscription Plans

If Customer obtains a subscription as a Sound Scouts APD Suite Subscriber, it will be charged the applicable subscription fee monthly or annually in accordance with Customer's selected payment option plus any applicable taxes and other charges ("**Subscription Fee**"), at the beginning of the subscription term set out in the invoice and each period thereafter at the then-current Subscription Fee. Customer may upgrade or downgrade or cancel their APD Suite Subscription at their discretion. If Customer purchases a subscription as a Sound Scouts APD Tool Suite Subscriber, we (or our third-party Payment Processor) will automatically charge Customer each period during the applicable Subscription Term using the Payment Method Customer has provided until it cancels its subscription or does not renew its subscription as set out below. By agreeing to these Terms and electing to purchase a subscription, Customer acknowledges that its subscription has recurring payment features and Customer accepts responsibility for all recurring payment obligations prior to termination or cancellation of its subscription by Customer or Sound Scouts, as permitted herein. Customer's subscription continues for the term set forth in its Invoice.

3.4 Free Trials. We may, at our sole option and in our sole discretion, offer free trials to a particular paid portion of the Services, subject to the terms of the offer. If Customer is signed up to such a free trial, the relevant paid functionalities of the Services will expire and no longer be available to Customer or its Authorised Users as of the day that follows the last day of its free trial. Customer may not receive a notice that its free trial has ended. If Customer cancels its free trial while it is ongoing, Customer's, or its Authorised Users' (as applicable) access to the applicable portion of the Services may be terminated immediately upon such cancellation.

4. Term and Termination

4.1 Agreement Term

For Customers, as further described below, a free subscription continues until terminated, while a paid plan has a term that may expire or be terminated pursuant to the subscription plan (the "Term"). The Agreement remains effective until all Credits under the Agreement have expired or been terminated or the Agreement itself terminates. Termination of the Agreement will terminate all Credits.

4.2 Termination for Cause

We or Customer may terminate the Agreement on notice to the other party if the other party materially breaches the Agreement and such breach is not cured within thirty (30) days after the non-breaching party provides notice of the breach. Customer is responsible for its Authorised Users, including for any breaches of the Agreement

caused by its Authorised Users. We may terminate the Agreement immediately on notice to Customer if we reasonably believe that the Services are being used by Customer or its Authorised Users in violation of applicable law. We may terminate the Agreement immediately on notice to Customer if Customer is unable to pay its debts, or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction.

4.3 Termination Without Cause

Customer may terminate its free plans immediately without cause. We may also terminate the Agreement without cause, but we will provide Customer with thirty (30) days prior written notice.

4.4 Effect of Termination

Upon any termination for cause by Customer, Customer will not be entitled to a refund of any prepaid fees or and credit for unused Credits covering the remainder of the Term for Services not performed, after the effective date of termination. Upon any termination for cause by us, Customer will pay any unpaid fees covering the remainder of the Term after the effective date of termination. In no event will any termination relieve Customer of the obligation to pay any fees payable to us for the period prior to the effective date of termination. Upon expiration of a paid portion of the Service, Customer will have access to a free version of their Organisation and Client/Player records and these Terms shall continue to govern all use of the Service by Customer or its Authorised Users. If Customer wishes to fully cancel its status as a Customer under the Agreement, it must affirmatively notify Sound Scouts in writing of its intent to do so and Customer will immediately cease use and ensure its Authorised Users immediately cease use of all User Accounts under Customer's control.

5. Privacy; Data Security

5.1 Privacy. We care about Your privacy. For information about how we collect, use and disclose Your personal information and aggregated and/or anonymised data, please refer to our [Privacy Policy](#) on the Sound Scouts website. For Sound Scouts Customers, including but not limited to schools, districts, clinical or educational institutions, our obligations with respect to processing personal data of Authorised Users may be

governed by a data processing agreement or other contractual terms between Sound Scouts and the Customer.

5.2 Security. We care about the integrity and security of Your personal information. However, we cannot guarantee that unauthorised third parties will never be able to defeat our security measures or to use Your data for improper purposes. You acknowledge that You provide Your data at Your own risk.

5.3 Deletion. We reserve the right to delete any User Content at any time after termination of Your status as a Customer or Authorised User, or at any time during the Term after a period of five years, or more, of inactivity of the relevant User Account, which may reasonably suggest that the account has been abandoned. Notification will be provided one month in advance and again one week prior to deletion.

6. (Deleted)

7. Representations; Disclaimer of Warranties

You represent and warrant that You have validly entered into the Agreement and have the legal power to do so. Customer further represents and warrants that it is responsible for the conduct of its Authorised Users and their compliance with the terms of the Agreement. except as expressly provided for herein, the services and all related components and information are provided on an “as is” and “as available” basis without any warranties of any kind and we expressly disclaim any and all warranties, whether express or implied, including the implied warranties of merchantability, title, fitness for a particular purpose and non-infringement. You acknowledge that we do not warrant that the services will be uninterrupted, timely, secure, or error-free.

Some jurisdictions do not allow the disclaimer of certain types of warranties, so the above disclaimers may not apply to You. The agreement grants specific legal rights and Customer may also have other rights that vary from jurisdiction to jurisdiction. The foregoing disclaimers will not apply to the extent prohibited by applicable law.

8. Limitation of Liability

To the maximum extent permitted by applicable law, in no event will our aggregate liability arising out of or related to the agreement (whether in contract or tort or under any other theory of liability) exceed the total amount paid or payable by customer hereunder in the twelve (12) consecutive months of the term commencing on the effective date. The foregoing will not limit customer’s payment obligations under the clause 3 above.

In no event will we have any liability to You, any authorised user, or any third party for any lost profits or revenues or for any indirect, special, incidental, consequential, cover or punitive damages however caused, whether in contract, tort or under any other theory of liability and whether or not the party has been advised of the possibility of such damages.

You are responsible for Your login credentials, including usernames and passwords. As between us and Customer, Customer is responsible for all login credentials, including usernames and passwords, for its administrator accounts as well the accounts of its Authorised Users. We will not be responsible for any damages, losses or liability to Customer, Authorised Users, or anyone else, if such information is not kept confidential by Customer or Authorised Users, or if such information is correctly provided by an unauthorised third party logging into and accessing the Services.

The limitations under this Clause 8 apply with respect to all legal theories, whether in contract, tort or otherwise and to the extent permitted by law. The provisions of this Clause 8 allocate the risks under the Agreement between the parties and the parties have relied on these limitations in determining whether to enter into the Agreement and the pricing for the Services.

Some jurisdictions do not allow the exclusion or limitation of certain types of damages, such as incidental or consequential damages, so the above limitations may not apply to You. The agreement grants specific legal rights and Customer may also have other rights that vary from jurisdiction to jurisdiction. The foregoing disclaimers and limitations will not apply to the extent prohibited by applicable law.

9. Indemnification

You agree to defend, indemnify and hold harmless us and our affiliates, licensors and suppliers and our and their respective employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt and expenses (including but not limited to attorney's fees) arising from: (i) Your access to the Services, including any User Content or other content transmitted or received by Customer or any Authorised User; (ii) Your violation of any term of the Agreement, including without limitation any breach of Your representations and warranties above; (iii) Your violation of any third-party right, including without limitation any right of privacy or intellectual property rights; (iv) Your violation of any applicable law, rule or regulation; (v) User Content or any content that is submitted via any account, including without limitation misleading, false, or inaccurate information; (vi) any claim brought against Sound Scouts by an Authorised User or Customer; (vii)

Customer's or any Authorised User's gross negligence, fraud, or wilful misconduct; or (viii) any other party's access and use of the Services with Customer's or any Authorised User's unique username, password or other appropriate security code (provided that such access and use was not our fault).

10. Confidentiality

The Services may include non-public, proprietary, or confidential information of Sound Scouts and/or of other users ("**Confidential Information**"). Confidential Information includes any information that should reasonably be understood to be confidential given the nature of the information and the circumstances of disclosure, including non-public business, product, technology and marketing information. You will: (a) protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as You would use protect Your own highly sensitive confidential information, but in no event with less than a reasonable degree of care; (b) not use any Confidential Information for any purpose other than to exercise Your rights, or to perform Your obligations, under the Agreement; and (c) not disclose any Confidential Information to any person or entity, except Your service providers or financial or legal advisors who/that (i) need to know the Confidential Information and (ii) are bound by non-use and non-disclosure restrictions at least as restrictive as those set forth in this Clause.

11. Governing Law; Release; Warranty

11.1 Governing Law; Venue

You agree that the Services will be deemed solely based in the State of New South Wales. You hereby consent to the exclusive jurisdiction and venue of the courts located in New South Wales in all disputes arising out of or relating to the use of the Services or the Agreement for any appeals of an arbitration award or for trial court proceedings in the event that the Arbitration Agreement below is found to be unenforceable and each party consents and submits to the exclusive jurisdiction of such courts. To the maximum extent permitted by law, these Terms will be governed by the laws of the State of New South Wales, without respect to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

11.2 Release

You hereby release us from all claims, damages (whether direct, indirect, incidental, consequential, or otherwise), obligations, losses, liabilities, costs, debts, and expenses, in each case of every kind and nature, known and unknown, arising out of a dispute

between You and a third party (including any other User) in connection with the Service. In addition, You waive any Applicable Law that says, in substance: “A general release does not extend to claims which the releasing party does not know or suspect to exist in his or her favour at the time of executing the release, which, if known by him or her, would have materially affected his or her settlement with the released party.”

11.3 No Warranty: Disclaimers

The service is provided on an “as is” and “as available” basis. Your use of the service is at Your own risk. To the maximum extent permitted by applicable law, the service, the intellectual property, and any other information available on or through the service are provided without warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, and/or non-infringement. No advice or information, whether oral or written, obtained by You from us or through the service will create any warranty not expressly stated herein. Without limiting the generality of the foregoing, Sound Scouts does not warrant that any content or any other information contained in, or available via, the service is accurate, comprehensive, reliable, useful, or correct; that the service will meet Your requirements; that the service will be available at any particular time or location, uninterrupted, or secure; that any defects or errors in the service will be corrected; or that the service is free of viruses or other harmful components. Any content downloaded or otherwise obtained through the use of the service is so obtained at Your own risk, and You will be solely responsible for any damage to Your computer system(s) or mobile device(s) and/or for loss of data that results from same or from Your access to and/or use of the service. You may have other statutory rights, but the duration of statutorily required warranties, if any, will be limited to the shortest period permitted by applicable law.

Further, Sound Scouts does not warrant, endorse, guarantee, recommend, or assume responsibility for any product or service advertised or offered by any third party through the service or any hyperlinked website or service, and Sound Scouts will not be a party to, or in any way monitor, any transaction between You and third-party providers of products or services.

12. Our responsibility to You

12.1 What we are responsible for. We are responsible to You for foreseeable loss and damage caused by us. If we fail to comply with these Terms, we are responsible for loss or damage You suffer that is a foreseeable result of our breaching these Terms or our failing to use reasonable care and skill. Loss or damage is foreseeable if either it is

obvious that it will happen or if, at the time the contract was made, both we and You knew it might happen.

12.2 We do not exclude or limit in any way our liability to You where it would be unlawful to do so. Nothing in the Terms is intended to exclude or limit our liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; or affect Your statutory rights in the laws in Your country of residence.

12.3 Unavailability. We will exercise reasonable care and skill in providing the Service to You but, due to the nature of the internet and technology, any features of the Service may be unavailable if we need to undertake any emergency or scheduled maintenance on our systems. This means that we are unable to promise that Your use of the Service will be uninterrupted, without delay, error-free, or meet Your expectations and we do not give any commitment relating to the performance or availability of the Service in these Terms.

13. Additional Terms for Apps

13.1 General. This clause 13 applies when You download and use any App.

13.2 Relationship. These Terms set out the terms of Your agreement with us, and do not apply to Your relationship with Apple, Inc., Google Ireland Limited, Microsoft Inc or any other provider of an app store or distribution platform (an “**App Store**”) from which You download the App (the “**Store Provider**”).

13.3 Responsibility for Service. Sound Scouts, and not the Store Provider, will be solely responsible for the Service, any content that Sound Scouts makes available through the Service and any support or maintenance in respect of the Service. The Store Provider will have no obligation to provide any maintenance or support services with respect to the Service.

13.4 Responsibility for non-compliance Sound Scouts, not the Store Provider, will be solely responsible if the Service does not comply with any warranties or other promises (including any promises made in respect of its functionality, suitability or fitness for purpose). To the maximum extent permitted by law, the Store Provider will not be responsible to You for any claims in relation to the Service.

13.5 Intellectual Property Infringements. In the event of any claim that the Service infringes another person’s Intellectual Property Rights, Sound Scouts, not the Store Provider, will be solely responsible for investigating, defending, settling or otherwise dealing with any such intellectual property infringement claim.

13.6 Each Store Provider (and members of its corporate group) is a third party beneficiary under these Terms and has the right to enforce these Terms against You.

13.7 **General.** To use any app offered via the Services (“**App**”), You must have a mobile device that is compatible with such App. Sound Scouts does not warrant that any App will be compatible with Your mobile device. You may use mobile data in connection with an App and may incur additional charges from Your wireless provider in connection with such App. You understand and acknowledge that You are solely responsible for any such charges. We hereby grant You a non-exclusive, limited, non-transferable and freely revocable license to use a compiled code copy of the App(s) under Your User Account on one (1) or more mobile devices owned or controlled solely by You (except to the extent Apple, Google or Microsoft permits any shared access and/or use of the iOS App, Android or Microsoft App (as each of those terms is defined below), respectively), solely in accordance with these Terms. The foregoing license grant is not a sale of any App or of any copy thereof. You may not: (a) modify, disassemble, decompile, or reverse engineer any App, except to the extent that such restriction is expressly prohibited by Applicable Law; (b) rent, lease, loan, resell, sublicense, distribute, or otherwise transfer any App to any third party, or use any App to provide time sharing or similar services for any third party; (c) make any copies of any App; (d) remove, circumvent, disable, damage, or otherwise interfere with security-related features of any App, features that prevent or restrict use or copying of any content accessible through any App, or features that enforce limitations on use of the Apps; or (e) delete the copyright or other proprietary rights notices on any App. You acknowledge that we may, from time to time, issue upgraded versions of the Apps and may automatically electronically upgrade the version of the App that You are using on Your mobile device. You consent to such automatic upgrading on Your mobile device and You understand and acknowledge that the terms and conditions of these Terms will apply to all such upgrades. Any third-party code that may be incorporated into an App is covered by the applicable open source or third-party license, if any, authorizing use of such code. We or our third-party partners or suppliers retain all right, title and interest in and to the Apps (and any copies thereof). Any attempt by You to transfer or delegate any of the rights, duties, or obligations hereunder, except as expressly provided for in these Terms, is void. We reserve all rights not expressly granted under these Terms.

13.8 **iOS App.** Clause 13.8 (iOS App) applies to any App You acquire from the Apple App Store (such App, “**iOS App**”). You and Sound Scouts understand and acknowledge that these Terms are solely between You and Sound Scouts, not Apple, Inc. (“**Apple**”) and that Apple has no responsibility for the iOS App or content thereof. Your access to

and use of the iOS App must comply with the usage rules set forth in Apple's then-current [Apple Media Services Terms and Conditions](#) and with the applicable [Volume Content Terms](#). You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iOS App. In the event of any failure of the iOS App to conform to any applicable warranty, You may notify Apple and Apple will refund the purchase price (if any) for the iOS App to You; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iOS App and any other claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any warranty will be governed solely by these Terms and any law applicable to Sound Scouts as provider of the iOS App. You and Sound Scouts acknowledge that Apple is not responsible for addressing any claims of You or any third party relating to the iOS App or Your possession and/or use of the iOS App, including, but not limited to: (a) product liability claims; (b) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation. You acknowledge that, in the event of any third-party claim that the iOS App, or Your possession and use of that iOS App, infringes that third party's intellectual property rights, Sound Scouts, not Apple, will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim, to the extent required by these Terms. You and Sound Scouts acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries of these Terms as relates to Your license of the iOS App and that, upon Your acceptance of the terms and conditions of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms as relates to Your license of the iOS App against You as a third-party beneficiary thereof.

13.9 Android App. The following applies to any App You acquire from the Google Play Store (such App, "**Android App**"): (a) You acknowledge that these Terms are between You and Sound Scouts only and not Google LLC or any affiliate thereof (collectively, "**Google**"); (b) Your access to and use of the Android App must comply with Google's then-current [Google Play Terms of Service](#); (c) Google is only a provider of the Google Play Store where You obtained the Android App; (d) Sound Scouts and not Google, is solely responsible for the Android App; (e) Google has no obligation or liability to You with respect to the Android App or these Terms; and (f) You understand and acknowledge that Google is a third-party beneficiary to these Terms as they relate to the Android App.

13.10 Microsoft App. The following applies to any App You acquire from the Microsoft Store (such App, “**Microsoft App**”): (a) You acknowledge that these Terms are between You and Sound Scouts only and not Microsoft Inc or any affiliate thereof (collectively, “**Microsoft**”); (b) Your access to and use of the Microsoft App must comply with Microsoft’s then-current [Microsoft Store Terms of Service](#); (c) Microsoft is only a provider of the Microsoft Store where You obtained the Microsoft App; (d) Sound Scouts and not Microsoft, is solely responsible for the Microsoft App; (e) Microsoft has no obligation or liability to You with respect to the Microsoft App or these Terms; and (f) You understand and acknowledge that Microsoft is a third-party beneficiary to these Terms as they relate to the Microsoft App.

13.11 Disclaimer. The Sound Scouts App is a screening test only and should only be used as an indication of the Player's hearing. We acknowledge the Player may be a child. It is not a replacement for a hearing test carried out by a qualified clinician. It should not be taken as medical advice.

The Sound Scouts App screening test must be carried out in a quiet environment where the Player can give their full attention to the game. Headphones are required. We will collect, store, use and disclose personal information obtained through use of the Sound Scouts App in accordance with our privacy policy at <https://www.soundscouts.com/au/about-company/privacypolicy>.

The results from the Sound Scouts App may vary, depending on whether you and the Player are in a quiet or noisy environment, whether the Player has understood what they are supposed to do and the Player's concentration during the game.

You should not rely upon the results of the Sound Scouts App screening test as a basis for determining the Player's hearing status. Any reliance placed on the results of the Sound Scouts App hearing screening is entirely at your own risk.

14. Miscellaneous

14.1 Publicity

Neither party will use the other party's name, trademarks, or logos without such other party's prior written consent.

14.2 Third Party Products, Links and Information

The Services may contain links to third-party sites, materials and/or services (collectively, “Third-Party Services”) that are not owned or controlled by us and certain functionalities of the Services may require Your use of third-party services. If You use a

Third-Party Service in connection with the Services, You are subject to and agree to and must comply with the third party's terms and conditions made available via, or agreed in connection with, its services. We do not endorse or assume any responsibility for any Third-Party Services. If You access a Third-Party Service from the Services or share Your user content on or through any Third-Party Service, You do so at Your own risk and You understand that these terms and our privacy notice do not apply to Your use of any Third-Party Service. You expressly relieve us from any and all liability arising from Your access to and/or use of any Third-Party Service.

14.3 Force Majeure

Neither we nor You will be liable by reason of any failure or delay in the performance of its obligations (excluding the Customer's payment obligations) on account of events beyond the reasonable control of a party, which may include denial-of-service attacks, a failure by a third party hosting provider or utility provider, strikes (other than a strike involving a party's own employees or contractors), shortages, riots, fires, acts of God, war, terrorism, pandemic and governmental action.

14.4 Relationship of the Parties; No Third-Party Beneficiaries

The parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. There are no third-party beneficiaries to the Agreement; a person who is not a party to the Agreement may not enforce any of its terms under any applicable law.

14.5 Email Communications

Except as otherwise set forth herein, all notices under the Agreement will be by email to the email address You provide to us, although we may instead choose to provide notice to You through the Services. Notices to us must be sent to contact@soundscouts.com. Notices will be deemed to have been duly given (a) the business day after it is sent, in the case of notices through email; and (b) the same day, in the case of notices through the Services.

14.6 Modifications

We may change these Terms and the other components of the Agreement in accordance with this Clause. If we make a material change to the Agreement, we will provide You with reasonable notice prior to the change taking effect, either by emailing the email address associated with Your account or by messaging You through the Services. You can review the most current version of these Terms at any time by visiting this page and by visiting the most current versions of the other pages that are

referenced in the Agreement. The materially revised Agreement will become effective on the date set forth in our notice and all other changes will become effective upon posting of the change. If You access or use the Services after the effective date of such update, that use will constitute Your acceptance of any revised terms and conditions.

14.7 Waivers

No failure or delay by either party in exercising any right under the Agreement will constitute a waiver of that right. No waiver under the Agreement will be effective unless made in writing and signed by an authorised representative of the party being deemed to have granted the waiver.

14.8 Severability

The Agreement will be enforced to the fullest extent permitted under applicable law. If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law and the remaining provisions of the Agreement will remain in effect.

14.9 Conflicting Terms.

These Terms will govern Your relationship with Sound Scouts however, to the extent any terms in these Terms conflict with terms in an Invoice the terms in the Invoice will control.

14.10 Assignment

Neither party may assign or delegate any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, we may assign the Agreement in its entirety, without consent of Customer or any Authorised User, to a corporate affiliate or in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets. Any purported assignment in violation of this Clause is void. Subject to the foregoing, the Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

14.11 Entire Agreement

The Agreement, including these Terms and all Schedules and referenced pages constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Without limiting the foregoing, the Agreement supersedes the terms

of any online agreement electronically accepted by You. However, to the extent of any conflict or inconsistency between the provisions in these Terms and any other documents or pages referenced in these Terms, the following order of precedence will apply: (a) the applicable Data Privacy Agreement; (b) these Terms; and (c) any other documents or pages referenced in these Terms. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order, vendor onboarding process or web portal, or any other Customer order documentation will be incorporated into or form any part of the Agreement and all such terms or conditions will be null and void.

14.12 Survival

Any clause of the Agreement that, by its terms or its nature, should survive the termination or expiration of the Agreement shall so survive, including but not limited to Clauses 2.1(a), 2.2(a), 4.4 and 7, 8, 9, 10, 11, 12 and 14.

14.13 Contacting Us

Please also feel free to contact us if You have any questions about the Terms or any other part of the Agreement. You may contact us [here](#).

Schedule 1 – Additional or Substituted Terms for United States of America

Where You are located in the United States of America or claim in any way to be bound by any jurisdiction of or associated with the United States of America, the following terms are incorporated into the Terms and apply in addition to the terms in the main body of these Terms. Where these additional terms refer to a clause in the main body of the Terms, the additional terms are an addition to that existing clause and not a substitute for the existing clause.

They include a mandatory individual arbitration provision in clause 11.2 and a jury trial waiver provision in clause 11.3 that require the exclusive use of final and binding arbitration to resolve disputes between You and us, including any claims that arose or were asserted before You agreed to these terms. To the fullest extent permitted by applicable law, You expressly waive Your right to seek relief in a court of law and to have a jury trial on Your claims, as well as Your right to participate as a plaintiff or class member in any class, collective, private attorney general, or representative action or proceeding.

| Clause | Term |
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| 2.3 | Unless otherwise agreed to in writing, You may not submit any User Content that includes a social security number, passport number, driver's license number, or similar identifier, credit card or debit card number, or any other information which may be subject to specific data privacy and security laws including, but not limited to, the Gramm-Leach-Bliley Act (GLBA), the Health Insurance Portability and Accountability Act (HIPAA), or the Health Information Technology for Economic and Clinical Health Act (HiTECH). |
| 3.1 | All Fees are stated exclusive of any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use and withholding taxes, assessable by any jurisdiction (collectively, but, for clarity, excluding taxes based on our net income, " Taxes "). |
| 5.4 | Notice of Electronic Access. In accordance with Ohio Revised Code Section 3319.327 and Minnesota Statute section 13.32 subdivision 14, Sound Scouts hereby provides notice that the Services may electronically access or monitor the audio or visual receiving, transmitting, or recording feature of a school-issued devices. Please note that the use of these features is strictly limited to educational or clinical purposes and access is only initiated under the supervision or consent of the Supervisor. |
| 11.2 | <i>Read this Clause carefully because it requires the parties to arbitrate their disputes and limits the manner in which You may seek relief from us.</i> |

| Clause | Term |
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| | <p>For any dispute with us, You agree to first contact us at contact@soundscouts.com and attempt to resolve the dispute informally. If we have not been able to resolve a dispute within sixty (60) days of Your first contact, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to the Agreement, or the breach or alleged breach thereof by binding arbitration, except as provided herein. The arbitration will be conducted in New South Wales unless we agree otherwise. If You are using the Services for commercial purposes, each party will be responsible for paying any filing, administrative and arbitrator fees and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. If You are an individual using the Services for non-commercial purposes: (a) the arbitrator may require You to pay a fee for the initiation of Your case, unless You apply for and successfully obtain a fee waiver from the arbitrator; (b) the award rendered by the arbitrator may include Your costs of arbitration, Your reasonable attorney's fees and Your reasonable costs for expert and other witnesses; and (c) You may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve You of Your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Clause shall be deemed as preventing us from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, intellectual property rights or other proprietary rights.</p> |
| 11.3 | <p>Class Action / Waiver of Jury Trial / Fees</p> <p>To the maximum extent permitted by law, with respect to all persons and entities, regardless of whether they have obtained or used the Services for personal, commercial or other purposes, all claims must be brought in the parties' individual capacity and not as a plaintiff or class member in any purported class action, collective action, private attorney general action or other representative proceeding. This waiver applies to class arbitration and unless we agree otherwise, the arbitrator may not consolidate more than one person's claims. You and Sound Scouts agree that the arbitrator may award relief only to an individual claimant and only to the extent necessary to provide relief on Your individual claim(s). Any relief awarded may not affect other users. You and Sound Scouts further agree that, by entering into this Agreement, You and Sound Scouts are each waiving the right to a trial by jury or to bring, join, or participate in a class action, collective action, private attorney general action, or other representative proceeding of any kind as a plaintiff or class member.</p> |

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| | In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover its reasonable costs and attorney's fees. |
| 11.4 | United States federal law and some states, provinces, and other jurisdictions do not allow the exclusion of and/or limitations on certain implied warranties, so the above exclusions and/or limitations may not apply to You. These terms give You specific legal rights, and You may also have other rights, which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, and limitations under these terms will not apply to the extent prohibited by applicable law. |
| 15 | <p><u>Additional Terms for U.S. Customers</u></p> <p>15.1 U.S. Government Restricted Rights To the extent the Service is being used by or on behalf of the U.S. Government, the Service will be deemed commercial computer software or commercial computer software documentation (as applicable). Accordingly, if You are an agency of the U.S. Government or any contractor therefor, You receive only those rights with respect to the Service as are granted to all other Users hereunder, in accordance with 48 C.F.R. §227.7202 and 48 C.F.R. §12.212, as applicable.</p> <p>15.2 State or Local Government Customers If Customer is a state or local government, the terms in this Clause apply, but only to the extent the Services are being used in Customer or its Authorised User's official capacity as a state or local government official. The Clauses in the contract titled "Governing Law; "Venue"; Class Action / Waiver of Jury Trial / Fees," and "Indemnification" will not apply to Customer only to the extent Customer's jurisdiction's laws prohibit Customer from accepting the requirements in those clauses.</p> <p>15.3 U.S. Education Professional Customers Individually and collectively, Sound Scouts and Customer agree to uphold our obligations under the Family Educational Rights and Privacy Act ("FERPA"), the Children's Online Privacy Protection Act ("COPPA"), the Protection of Pupil Rights Amendment ("PPRA"), applicable state laws relating to student data privacy and all other laws and regulations governing the protection of Student Data. "Student Data" is any information that is</p> |

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| | <p>directly related to an identifiable current or former student that is maintained by a school, school district, or related entity or organisation, or by us, in connection with the provision of the Services and may include “educational records” as defined by FERPA. Under FERPA, Sound Scouts processes Student Data as a school official with a legitimate interest, subject to the Customer’s direction and control. For the avoidance of doubt, Sound Scouts’ processing of Student Data on behalf of Customer is governed by the terms of the contractual agreement between Sound Scouts and the educational institution Customer, including, as applicable, a Data Privacy Agreement. As between Sound Scouts and Customer, Customer owns all right, title and interest to all Student Data and we do not own, control, or license Student Data, except so as to provide the Service to Customer and its Authorised Users.</p> <p>By using Sound Scouts in an educational setting, Customer authorises Sound Scouts to access, collect, transmit, modify, display and store Student Data to provide the Service and as otherwise described in these Terms, our Privacy Notice and other applicable agreement between Sound Scouts and the Customer. If Customer permits Students under the age of 13 to use the Service, Customer represents and warrants that it has the requisite authority to provide consent for Sound Scouts to collect personal information from Students under 13, as permitted by COPPA, for the purposes of providing the Services. Where required, Customer represents it has provided the necessary disclosures to Authorised Users (and to their parents/guardians, as applicable) regarding Sound Scouts’ processing of Student Data. Sound Scouts recommends that all Supervisor and educator Customers provide a copy of our Privacy Notice to parents and guardians.</p> <p>15.4 California Residents. If You are a California resident, in accordance with Cal. Civ. Code §1789.3, You may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting it in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210 or (916) 445-1254.</p> |