

Terms of use

Cook SA Pty Ltd (ACN 149 426 880) trading as Sprout and Sprout Cooking (**Sprout**) owns and operates the following websites and applications (together, **Platforms**):

- Sprout App
- <https://app.sprout.edu.au/>

In these Terms, 'us', 'we' and 'our' refers to Sprout, and "you" refers to any user of the Platforms or recipient of the Goods and Services.

The following terms of use (**Terms of Use**) govern your access to and use of the Platforms, and the products and services made available to you through the Platforms (**Goods and Services**). By accessing and using the Platforms, or either of them, you confirm that you have read and understood these Terms of Use, and agree to be bound by them.

Access

Access to the Platforms is permitted on a temporary and limited basis for the purpose of browsing the Platforms and interacting with Sprout. We reserve the right to withdraw or amend the Platforms and any Goods and Services listed on the Platforms with or without notice, subject to the remainder of these Terms of Use and any supplemental Terms which may be applicable if you are paying or have paid us to access the Platforms or any particular features or resources on the Platforms. We will use reasonable skill and care in providing the Platforms to you and in keeping a safe, secure and error-free environment but we cannot guarantee the Platforms will always function without disruptions, delays or imperfections.

Linked sites

The Platforms may contain links to other websites (**Linked Sites**) which are not operated by Sprout. Sprout has no control over the Linked Sites and, to the extent permitted by law, Sprout accepts no responsibility for them or for any loss or damage that may arise from your use of the Linked Sites. Your use of any Linked Site is solely between you and the provider of that Linked Site and will be subject to that provider's terms of use and service .

Privacy policy

Our privacy policy, which sets out how we will use your personal information, can be found at <https://app.sprout.edu.au/>. We will manage your personal information in accordance with our privacy policy.

Prohibitions

Access to the Platforms is provided to you on the basis that you must not misuse the Platforms. Accordingly, you must not use the Platforms to do any of the following:

- (a) commit or encourage a criminal offence, or do anything that is otherwise unlawful;
- (b) transmit or distribute a virus, trojan, worm, logic bomb or any other material which is malicious, technologically harmful, in breach of confidence or in any way offensive or obscene;
- (c) hack into any aspect of the Platforms; corrupt data; cause annoyance to other users;
- (d) maliciously interrupt the purchase of Goods and Services from the Platforms;
- (e) infringe upon the proprietary rights of any other person;

- (f) without our written permission, modify, translate, create derivative works of, decompile or reverse engineer the Platforms or their components or attempt to extract source code from us;
- (g) send any unsolicited advertising or promotional material (spam);
- (h) attempt to affect the performance or functionality of any computer facilities of or accessed through the Platforms; or
- (i) anything that is otherwise in violation of these Terms of Use.

We can suspend or cancel your use of the Platforms (including any additional features or resources, and access to any Goods and Services made available to you through the Platforms) where your conduct violates these Prohibitions, but where we reasonably determine your violation of a Prohibition to be of a relatively minor nature and capable of being rectified, we will give you reasonable opportunity to rectify it before we cancel your access rights (but we may suspend your access rights pending that rectification).

You acknowledge that breaching certain of these Prohibitions may constitute a criminal offence and, in such cases, Sprout will report such breaches to the relevant law enforcement authorities and disclose your identity to them.

Provided we have acted with reasonable skill and care, and to the extent permitted by law, Sprout will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Platforms or to your downloading of any material posted on it, or on any Linked Sites.

Subscriptions & In-App Purchases

You may purchase a subscription to access additional features and resources on the Platforms via the Sprout Website.

You may subscribe either on a monthly or annual basis, or for such other periods that Sprout may offer from time to time for the price displayed on the Platforms at the time of purchase. The subscription will be subject to these Terms of Use and any supplemental Terms made available to you prior to or at the time of purchasing the subscription and such supplemental Terms will become part of our agreement with you.

Automatic renewal of subscription

Subject to the remainder of these Terms, your subscription will automatically renew for the same period as the initial term, at our then current price for that subscription (as displayed on the Platforms, **which may be more than your original subscription fee**), and otherwise on the same terms and conditions of this agreement in force immediately prior to the renewal, unless the subscription is cancelled at least 24 hours before the end of the current billing period.

Subscriptions can be managed, and automatic renewal cancelled, from within your account settings in the Sprout App.

Account creation

When you register and activate your subscription, you will be provided with or must create a username and password. We encourage you to use a strong and unique password. You are responsible for keeping this username and password secure and are responsible for all use and activity carried out under this username. Usernames and passwords are not to be shared and you must not allow others to use them to log in to a Platform. To the extent permitted by law, Sprout is not responsible for any loss or activity that results from the unauthorised use of your account due to your failure to secure your access credentials.

Payments

You can pay your subscription fee on the Sprout Website or the Sprout App via credit card, Apple Pay and Google Pay. When you purchase a subscription, you guarantee and warrant that the information provided is accurate and complete. If any payment or transaction is unsuccessful, rejected or dishonoured, you will not be able to access the Platforms (including any Goods and Services) or your access will be terminated or suspended.

Sprout reserves its rights to revise and update the subscription fees from time to time and at its own discretion. We will give you thirty (30) days' notice of any change in subscription fees. Any such revision or updates will apply prospectively to any subscriptions entered into or renewed following the effective date of the revision or update. All prices stated on the Platforms are in Australian dollars and, unless otherwise stated, inclusive of GST. Where an amount payable for any taxable supply made under or in accordance with these Terms of Use does not include GST, it shall be increased by an amount equal to the GST payable on that taxable supply. The recipient need not make any payment for a taxable supply unless the supplying party has first issued a tax invoice. The terms used in this clause have the same meaning as those terms and phrases in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Cancellations

You may cancel your subscription at any time. Upon cancellation, you will continue to receive the benefits of the subscription until expiry of the remainder of the paid subscription period.

Refunds of subscription fees

The clause which immediately follows this clause applies where you are a "consumer" within the meaning of the Australian Consumer Law, which is contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

Subject to the above, and unless required by law, including under the Australian Consumer Law, subscriptions are non-refundable.

Continuity of Service

Sprout will make reasonable efforts to ensure the Platforms are available to you 24 hours per day, seven days a week. We do not warrant that your use of and access to the Platforms will be uninterrupted or error-free and we do not guarantee it will be safe and secure. You acknowledge that the Platforms will be unavailable from time to time because of the nature of the service or for planned and unplanned maintenance. Where practicable, we will give you reasonable advanced notice of planned maintenance works. You agree that we are not responsible for interruptions to service affecting your access to the Platforms caused by third parties or by events which are beyond our reasonable control.

We retain the right to take any of the Platforms off-line to perform planned and unplanned maintenance and will take all reasonable steps to restore service as quickly as possible.

You acknowledge and agree that you are fully liable and responsible for maintaining your network connections and telecommunication links and implementing sufficient procedures and checkpoints to satisfy your requirements for antivirus protection and accuracy of data input and output, and for maintaining a means external to the Platforms for any reconstruction of any lost data.

Intellectual Property

All patents, trade marks, logos, trade names, rights in domain names, copyrights, moral rights, design rights, database rights, rights in undisclosed or confidential information and other intellectual property rights in all software (relating to the Platforms), the Goods and Services, the Platforms (and all content on the Platforms, including photographic images) remain the property of Sprout or its licensors and are protected by copyright and other intellectual property laws.

Sprout and its licensors (where appropriate) reserve all such rights (and nothing in these Terms of Use or on the Platforms should be construed as granting you any interest, licence or right of use in respect of any such intellectual property rights, except those limited rights expressly granted hereunder). You may store, print and display the content supplied solely for your own personal use. You are not permitted to publish, manipulate, distribute or otherwise reproduce, in any format, any of the content or copies of the content supplied to you or which appears on the Platforms, nor may you use any such content in connection with any business or commercial enterprise.

If you provide us with any feedback or suggestions regarding the Platforms, you hereby assign to us all intellectual property and other rights in such feedback and agree that we shall have the right to use and fully exploit such feedback and related information in any manner we believe appropriate. We will treat any feedback you provide to us as non-confidential. Where you may have moral rights in your feedback, insofar as you are able you waive those moral rights and voluntarily and unconditionally consent to all acts or omissions by Sprout (or persons authorised by Sprout) which would otherwise infringe your moral rights. For the purpose of this clause "moral rights" means, in respect of any intellectual property, the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, which are rights created under the *Copyright Act 1968* (Cth), and any other similar right capable of protection under the laws of any applicable jurisdiction.

Restriction of Access

Sprout reserves the right to restrict, suspend or terminate your access to the Platforms or any feature of the Platforms at any time and for any reasons, with or without notice to you (subject to any laws, including the Australian Consumer Law).

Where you are a paid subscriber, and we exercise our rights under the preceding clause (other than due to your breach of these Terms of Use):

- to restrict or suspend your access to the Platforms (in a way which materially decreases the functionality of the Platforms), we will refund you any prepaid subscription fees referable to the period of that restriction or suspension. Where that restriction or suspension continues for more than seven (7) days you may cancel the subscription and we will refund you any prepaid subscription fees covering the remainder of the subscription period; or
- to terminate your access to the Platforms, we will refund you any prepaid subscriptions fees covering the remainder of the subscription period.

Disclaimer of liability

Nothing in these Terms of Use excludes, restricts or modifies any right or remedy, or any guarantee, term, condition, warranty, undertaking, inducement or representation, implied or imposed by any legislation which cannot lawfully be excluded or limited (**Non-Excludable Guarantees**). This may include the consumer guarantees under the Australian Consumer Law. Nothing in these Terms of Use purports to modify or exclude the Non-Excludable Guarantees.

Subject to any Non-Excludable Guarantees, the material displayed on the Platforms is provided without any guarantees, conditions or warranties as to its accuracy and on the basis that you are responsible for assessing the accuracy of that material and rely on it at your own risk.

To the maximum extent permitted by law, where Sprout is able to limit its liability for a breach of the Non-Excludable Guarantees, and it is fair and reasonable in the circumstances to do so, then Sprout's liability for a breach of the Non-Excludable Guarantees is limited, at its election, to any one or more of the following:

where the breach relates to the supply of goods:

- replacing the goods with the same or equivalent goods , or paying the cost of such replacement;
- repairing the goods or paying for their repair;

where the breach relates to the supply of services:

- the supply of the services again;
- the payment of the cost of having the services supplied again.

Provided we have acted with reasonable skill and care, we do not accept responsibility for:

- losses not caused by our breach of these Terms of Use or otherwise by our acts;
- losses that are not reasonably foreseeable by you and us at the time of entering into these Terms of Use;
- any offensive, inappropriate, obscene, unlawful or otherwise objectionable content posted by others that you might encounter on the Platforms;
- the actions or conduct of others; and
- events beyond our reasonable control.

To the extent permitted by law, neither party shall be liable to the other for any loss, cost, damage or expense to the extent that it is for indirect, special or consequential loss (where consequential loss means any loss, cost, damage or expense beyond the normal measure and beyond that which every plaintiff in a like situation would suffer), including but not limited to any loss of profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss of reputation, loss of goodwill, loss of value of intellectual property or any increased cost of working.

Subject to the above, all other terms, representations, warranties, guarantees and conditions that might otherwise be granted or implied by law are expressly excluded to the maximum extent permitted by law, unless agreed by the parties in writing.

Medical disclaimer

The Platforms promote a healthy lifestyle. We do not purport to give you medical advice or assistance in any form whatsoever. The information provided on the Platforms is prepared as general information only. You acknowledge and agree that you are responsible for assessing your health and wellbeing. We encourage you to seek appropriate medical advice and assistance from a qualified medical practitioner or your relevant health care professional.

Information provided by us on the Platforms is derived from sources which we believe to be reliable, accurate and up to date at the date of publication. We may update the information on the Platforms at any time, but you acknowledge that the information on the Platforms may not be the most current and update to date information.

Disclaimer as to ownership of trade marks, images of personalities and third-party copyright

Except where expressly stated to the contrary, all persons (including their names and images), third party trade marks and content, services and/or locations featured on the Platforms are in no way associated, linked or affiliated with Sprout and you should not rely on the existence of such a connection or affiliation. Any trade marks/names featured on the Platforms are owned by the respective trade mark owners. Where a trade mark or brand name is referred to it is used solely to describe or identify the products and services and is in no way an assertion that such products or services are endorsed by or connected to Sprout.

Amendments to the Terms of Use

Subject to those limitations in relation to amendments to pricing as set out above, Sprout reserves the right to amend these Terms of Use from time to time at its discretion by notice in writing to you (**Amendments**). We will notify you at least thirty (30) days before we make any changes to these Terms of Use and give you an opportunity to review them before they become effective, unless changes are required by law. Once any updated Terms of Use are in effect, you will be bound by them if you continue to use the Platforms. If you do not agree to the amended Terms of Use you can cease accessing the Platforms and delete your account (if applicable) at any time and/or terminate your subscription, in either case by giving us reasonable notice before the effective date of the amendment. The right to terminate under this clause will not negate any obligation of yours to pay subscription fees up to the date of termination.

Complaints

We operate a complaints handling procedure which we will use to try to resolve disputes when they first arise, please let us know if you have any complaints or comments. Complaints should be sent to app@sprout.edu.au.

General termsSeverability

If any portion of these Terms of Use is found to be unenforceable, the unenforceable portion will be deemed amended to the minimum extent necessary to make it enforceable, and if it can't be made enforceable, then it will be severed and the remaining portion will remain in full force and effect.

Waiver

A waiver of any right, power or remedy under these Terms of Use must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion. The fact that a party fails to do, or delays in doing, something the party is entitled to do under these Terms of Use does not amount to a waiver.

Transfer of rights and obligations

You will not transfer any of your rights or obligations under these Terms of Use to anyone else without our consent.

These Terms of Use do not confer any third-party beneficiary rights.

All of our rights and obligations under these Terms of Use are freely assignable by us in connection with a merger, acquisition or sale of assets, or by operation of law or otherwise.

Jurisdiction and governing law

Your use of the Platforms and these Terms of Use are governed by the laws of South Australia and you submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in South Australia.