



# Terms of Service

(Last updated February 2021)

PLEASE READ THESE GENERAL TERMS OF SERVICE CAREFULLY. AMONG OTHER THINGS, THEY PROVIDE KEY INFORMATION ON YOUR LEGAL RIGHTS AND OBLIGATIONS, PAYMENT REQUIREMENTS, FUTURE CHANGES TO THE TERMS AND LIMITATIONS OF LIABILITY. THESE TERMS ALSO CONTAIN A MANDATORY CLASS ACTION WAIVER IN SECTION 18 WHICH AFFECTS HOW DISPUTES ARE RESOLVED.

Spark Careers Limited is a limited liability company registered in England with company number 11774095. Our registered office is at 333-335 High Street, Bangor, Gwynedd, United Kingdom, LL57 1YA, England and our VAT number is [310937226] (referred to herein as “SPARK” or “we” or “us” or “our”).

These General Terms of Service (“**General Terms**”), along with any applicable Additional Terms (see section 1 below) (collectively, the “**Terms**”) govern your use of and access to our website located at the domain [www.sparkcareers.org](http://www.sparkcareers.org), any sub-domains and/or any corresponding mobile applications (together the “**Platform**”), as well as your use or access to any related software, our customer support services, any interactive areas of the Platform and/or any other services we may provide to you (collectively, the “**Services**”).

Please note that the Terms constitute a binding legal agreement between you and SPARK. By visiting our Platform, installing, and/or using the Services, you acknowledge that you have read the Terms, understand them, and agree to be bound by the Terms. If you are using the Services on behalf of an organisation, you are agreeing to the Terms for that organisation and acknowledging that you have the authority to act on behalf of that organisation and commit to the Terms on behalf of that organisation. If you do not agree with the Terms or any provisions hereof, please do not install and do not use the Services.

## 1. Your Agreement with SPARK

**Additional Terms.** The Services are subject to the following additional terms:

- Data Protection Policy
- Cookie Policy
- Please read these additional terms carefully because they apply to you and your use of the Services.

**Updates to Terms.** SPARK may modify the Terms from time to time. The most recent version is the version that applies to your use of the Services. If the changes include material changes that affect your rights or obligations, we will notify you in advance of the changes by reasonable means, which could include notification through the Platform or via email. Unless it is stated by us otherwise, each update of the Terms comes into force as of the moment when amended Terms are published on this web page and pushed to user’s devices. You understand and agree that any continued use and access to the Services after any update to the Terms are published, means that you voluntarily agree to be bound by the updated Terms.

**Privacy.** For information about how we process personal information about you and your use of the Services, please see our Privacy Notice and Cookie Policy.

## 2. The Services

**The Platform.** The Platform incorporates a registered user area for the benefit of students and professional careers leaders. (Careers Professional – “CP”) Accordingly, SPARK acts in: providing the Platform, as a provider of a programme of live streamed employer engagement events; regularly updated careers information resources and a means of connecting employers with registered student users and student users with their careers professional through direct messaging. Registration is via educational institutions. Subsequently, we

consider the registered institutions to be a “Client”.

**Log-in Details.** Clients, CPs and students are responsible for maintaining the confidentiality of log-in details and for restricting access to their respective accounts which may not be shared with any other party.

**Use of the Services is at users own risk.** The Services may be modified, updated, interrupted or suspended at any time without notice or liability. We do not bear any liability for any harm or other adverse consequences caused by this. SPARK, its owners, employees, agents and others that are involved with the Services are not in any way or form liable for any harm of any kind executed or intended, resulting from or arising through or from the use of any account registered with the Services.

### 3. User obligations and warranties

By registering an institution you confirm that you are a **CP or professional equivalent** and 18 years old or over and that you have the authority to assume administrative rights assign logins to student users and that the Platform will only be used for educational purposes.

Consistent with applicable law, SPARK does not knowingly collect personal information from minors without parental consent. If we learn that we have inadvertently obtained information in violation of applicable laws prohibiting collection of information from children without such consent, we will promptly delete it.

When you register for SPARK, we will ask you:

- to provide us with certain information about you, such as your name, your institution, location and your email address. That information must be true, complete and current, and you must ensure that you keep it up to date. You may not register with us using an assumed name or someone else’s identity;
- if you are an advertiser or an employer detailing your organisation’s key information, you undertake, represent and warrant, that any information you so provide to us or provide on the Platform is accurate, complete and up-to-date.

If any or the representations and warranties in this section 3 is, or becomes, untrue, we will be

entitled to remove any such information immediately.

Our Platform contains a messaging system allowing students to message CPs and CPs to message students. All such messaging should be free from abuse, threats, discriminatory language misleading statements or false promises. We reserve the right to terminate or suspend any individual, immediately, who breaches these restrictions.

You must not post any confidential information (whether yours or another user’s) in any area of the Platform which is visible to users generally, and we will not have any liability if you do.

### 4. Uploading content to our Platform

If, during the course of your use of our Services, you upload content to our Platform, you must ensure that you have all the necessary rights to use that content and to share it with us and with other users of the Platform, and you must ensure that the content does not contain anything:

- which is a trade secret or otherwise confidential; or
- which is unlawful, offensive, obscene, defamatory or which tends to promote discrimination on the basis of a characteristic protected by law; or
- in any way breaches the intellectual property rights of a third party or their right to privacy.

You must deal with other users fairly and with professionalism and you must not use the Platform for junk mail, spam, or pyramid or similar or fraudulent schemes.

You retain all of your ownership rights in your content, but you are required to grant us and users of the Platform a limited licence to use, store and copy that content and to distribute and make it available to third parties. The rights you license to us are described in the section 9 (Rights you licence).

We also have the right to disclose your identity to any third party who is claiming that any content posted or uploaded by you to the Platform constitutes a violation of their intellectual property rights, or of their right to privacy.

We will not be responsible, or liable to any third party, for the content or accuracy of any content posted by you or any other user.

We have the right to remove any posting you make on the Platform.

The views expressed by other users on the Platform do not represent our views or values.

You are solely responsible for securing and backing up your content.

## **5. No Reliance on Information**

The content made available through the Platform is provided for general information only. It is not intended to amount to advice.

Although we make reasonable efforts to ensure that users provide accurate information on the Platform, we make no representations, warranties or guarantees, whether express or implied, that the contents of the Platform is accurate, complete or up-to-date.

## **7. Payments**

The Platform is free to download and free to register.

The free version allows students to:

Get careers ideas by taking the careers quiz + Access information on over 350 occupations + Search university and college courses + Explore live apprenticeship and job vacancies + View recordings of previous live events + Explore workplaces.

The 'Pro' paid for version allows students to:

Participate in live employer events + Ask live questions within the platform/app + Direct message their careers leader + CPs to upload and share career resources + Engage with Destination Tracking + Access the App for life The Pro version subscription is £49 per calendar month or a single payment of £499 per academic year

The above charges are exclusive of taxes and regulated processing fees.

## **8. Intellectual Property Rights**

The Services, including, but not limited to, our software, the Platform and all other products, are owned and copyrighted by SPARK and protected worldwide. We retain all right, title and interest in and to the Services and any portion thereof, including, without limitation, all copyrights, trademarks, service marks, patents, trade secrets and other intellectual property rights. You shall not take any action to jeopardise, limit or interfere in any manner with our ownership of and rights with respect to the Services. All rights are reserved unless otherwise noted.

By accessing and using our Platform and by using the Services, you accept and acknowledge that the Services, including the appearance, content, selection, assembly and functionality and any other parts or specifics of the Platform and the Services, is the ownership of SPARK. SPARK is a protected trademark, owned by SPARK and you are forbidden from Registration, adoption or any other use of trade names, symbols or signs that are either identical or confusingly similar to any trademarks owned by SPARK.

## **9. Rights you licence**

When you upload or post content to our Platform, you grant the following licences:

- a perpetual, worldwide, non-exclusive, royalty-free, transferable licence to us to use, reproduce, distribute, prepare derivative works or, display, your content in connection with the Platform across all media including but not limited to, promotion of the Platform; and
- a worldwide, non-exclusive, royalty-free licence to all users to use the content for their purposes in connection with the Platform that will terminate upon the deletion of your content or in respect of any-one specific user, if that user breaches the Terms.

## **10. Disputes between users**

If a dispute arises between you and another user, we may choose to offer our assistance to help resolve the matter but we are under no obligation to achieve a compromise or resolution.

## **11. SPARK dispute and cancellation policy**

We seek your full satisfaction with the Services. If you have an issue with the Platform, we would like to troubleshoot this with you first. There may be service issues or user input configuration issues that may hinder the Services for you, and we resolve most user issues encountered.

You have a right to cancel your Registration at any time, subject to fair use.

No refunds, compensation or redress of any kind will be available to you if your Registration is terminated by us for violation of the Terms.

## **12. Prohibited and restricted uses**

Your access to and use of the Services is subject to the Terms and all applicable laws and regulations. We reserve the right, at any time, in our sole discretion, with or without notice, to terminate the accounts of, and block access to the Services to any users who infringe any applicable laws or the Terms.

You agree that you shall not: use, assist, encourage, or enable others to use the Services for any unlawful, illicit, illegal, criminal or fraudulent activities; violate, infringe, or misappropriate other people's intellectual property, privacy or other legal rights; upload or share anything that is illegal, abusive, harassing, or otherwise objectionable; transmit any viruses or other malware or technological means that disrupt, damage, or interfere with the use of computers or related systems; attempt to circumvent any technological measure implemented by SPARK; interfere with or disrupt the integrity or performance of the Services; take any action that imposes or may impose an unreasonable or disproportionately large load on our infrastructure; sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services in any way; use any robot, spider, scraper, or other automated means to access our website or Services for any purpose without our prior written permission; build a product using similar ideas, features, functions or graphics of the Service or copy any ideas, features, functions or graphics of the Services; claim that you are the representative or agent of any of the Services, including any of its functionality; threaten, stalk, harm, or harass others, or promote bigotry or discrimination; attempt to gain unauthorised access to the Services, user accounts, computer systems or networks connected to the Services

through hacking, password mining, brute force or any other means; violate general ethical or moral norms, good customs and fair conduct norms; use the Services for anything other than lawful purposes set out in the Terms; to otherwise infringe or circumvent the Terms.

We reserve the right to refuse service, suspend accounts or limit access to the Services in our sole discretion. Such suspension or access limitation may be implemented by SPARK instantly and without any indication or notice. We may suspend your Registration for clarification, investigation or request you to explain your actions and provide additional information. If your Registration has been suspended, you must contact us for further information. We may suspend your Registration for a reasonable period of time before we terminate it permanently.

You access and use the Services in your country on your own initiative, and you solely are responsible for complying with your local laws and regulations if and to the extent such laws are applicable. We reserve the right to limit, in our sole discretion, the availability of the Services or any portion thereof, to any person, entity, geographic area, or jurisdiction, at any time.

You are disallowed to connect and use the Services if you are a competitor of our business or a

consumer, if you have been or are prohibited to access the Services, or if your Registration has been suspended or closed due to any reason.

We encourage you to let us know about the violation of the Terms by any other users; in case of such violations, we may take appropriate action at our sole discretion.

## **13. Disclaimer of warranties**

Reasonable efforts are taken to improve the accuracy and integrity of the Services, but complex software is never wholly free from defects, errors and bugs. We give no warranty or representation that the Services will be wholly free from defects, errors and bugs, such as downtime, loss of data, corrupt data, service delay, mistakes, out-of-date information, or other. Notwithstanding any other provision of the Terms, we reserve the right to change, suspend, remove, or disable access to the Services, or any functionality comprising a part of the Services at any time without notice. In no

event will we be liable for making these changes. As a registered user in good standing, you may be provided with limited service by SPARK. We do not warrant and will not have any liability or responsibility for your use of the Services. We may also impose limits on the use of or access to the Services, for any reason and without notice or liability. The Services may be unavailable from time to time due to human, digital, mechanical, telecommunication, software, and other failures. We cannot predict or control when such downtime may occur and cannot control the duration of such downtime.

THE SERVICES (INCLUDING, WITHOUT LIMITATION, OUR SOFTWARE AND THE PLATFORM) ARE PROVIDED "AS IS" AND WITH ALL FAULTS. WE MAKE NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING THE COMPLETENESS, ACCURACY, ADEQUACY, SUITABILITY, FUNCTIONALITY, AVAILABILITY, OR OPERATION OF THE SERVICES. YOU ACKNOWLEDGE THAT WE DO NOT HAVE CONTROL OVER YOUR USE OF THE SERVICES OR UNDER ANY CONTRACT FOR SERVICES THAT YOU ENTER INTO WITH ANOTHER USER, AND WE DO NOT WARRANT THE PERFORMANCE OR RESULTS THAT MAY BE OBTAINED THROUGH YOUR USE OF THE SERVICES OR IN RESPECT OF A CONTRACT FOR SERVICES. YOU ASSUME ALL RISKS AND RESPONSIBILITY FOR YOUR USE OF THE SERVICES AND FOR ANY LOSS OF OR ERRORS IN ANY DATA OR INFORMATION. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING THROUGH THE COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, WE NEITHER WARRANT NOR REPRESENT THAT YOUR USE OF THE SERVICES WILL NOT INFRINGE THE RIGHTS OF ANY THIRD PARTIES, NOR THAT THE SERVICES WILL BE AVAILABLE FOR YOUR ACCESS OR USE, NOR THAT OPERATION OF THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED. PLEASE NOTE THAT SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. IN ADDITION, YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM ONE JURISDICTION TO ANOTHER JURISDICTION.

#### **14. Force Majeure**

We shall not be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond our reasonable control, including, without limitation, failures of third party software (whether open or not), failures of your telecommunication or internet service providers, earthquakes, fires, floods, epidemics or pandemics, acts of terrorism, embargoes, labour disputes and strikes,

restrictive or lockdown measures, public health interventions, riots, war, acts of civil and military authorities and/or change of any governmental rule, regulation or legislation.

#### **15. Limitation of liability**

There are inherent risks in relying upon, using, transmitting, or retrieving any data and/or content on the Internet, and we urge you to make sure you understand these risks before using the Services.

To the extent permitted by law, we exclude all conditions, warranties, representations or other terms which may apply to the Services or any content made available to you via the Services, whether express or implied.

YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. NEITHER SPARK NOR ANY OF ITS PARENTS, SUBSIDIARIES OR AFFILIATES, NOR ANY OF THEIR EMPLOYEES, OFFICERS OR DIRECTORS, SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR INFORMATION OF ANY KIND, LOSS OF BUSINESS, LOST PROFITS, INTERRUPTION OF BUSINESS, COST OF COVER OR ANY OTHER DAMAGES) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SERVICES OR USE OF OR RELIANCE ON ANY CONTENT DISPLAYED ON THE PLATFORM, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, THE LIABILITY OF SPARK SHALL NOT EXCEED AN AMOUNT EQUAL TO THE SUMS PAID TO SPARK BY THE INDIVIDUAL USER UNDER THE TERMS AND SHALL NEVER

INCLUDE LEGAL FEES OR COURT COSTS IRRESPECTIVE OF ANY LAWS OR STATUTES THAT MAY PRESCRIBE OTHERWISE.

We assume no responsibility for the content of websites linked on our Platform. Such links should not be interpreted as endorsement by us of those linked websites. We will not be liable for any loss or damage that may arise from your use of them.

Nothing in the Terms excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

#### **16. Indemnification**

You agree, at your own expense, to indemnify, defend and hold harmless SPARK, its parents, subsidiaries and affiliates, and their officers, directors, employees, agents, distributors and licensees, from and against any judgments, losses, deficiencies, damages, liabilities, costs, claims, demands, suits, and expenses (including, without limitation, reasonable legal costs) incurred in, arising out of or in any way related to your breach of the Terms, your use of the Services, or any of your other acts or omissions or the acts or omissions of any third party in respect of who you are expressly stated to be responsible for under the terms of the Terms.

#### **17. Electronic communications**

You agree to receive communications from us electronically, e.g., by email, Platform messages, etc. and consent that such notifications satisfy any legal requirement for communication in writing. You agree that we may communicate to you for the purpose of advising you of changes or additions to the Services, about any of our products or services, or for such other purposes that are reasonable or required by applicable law.

When communicating with our customer support representatives, you agree to be respectful and kind. If we feel that your behaviour towards any of our customer support representatives or other employees is at any time threatening or offensive, we reserve the right to immediately terminate your account.

#### **18. Class action waiver**

Where permitted under the applicable law, class action lawsuits, class-wide arbitrations, private attorney-general actions, and any other proceeding where someone acts in a representative capacity are not allowed. Unless both you and SPARK agree, no arbitrator or judge may consolidate more than one person's claims or otherwise preside over any form of a representative or class proceeding.

#### **19. Application Platform Terms**

If our application is downloaded from Apple, Inc. ("Apple") App Store or if you are using the Services on an iOS device, you acknowledge that you have read, understood, and agree to the following notice regarding Apple:

The Terms are concluded between you and SPARK, not with Apple, and Apple is not responsible for the Services and the content thereof. Apple has no obligation whatsoever to furnish any maintenance or support services for the Service To the extent that the Services fails to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Service to you; to the maximum extent permitted by law, Apple will have no other warranty obligation with respect to the Services. Apple is not responsible for addressing any claims by you or any third party relating to the Service or your possession and/or use of the Service, including: (1) product liability claims; (2) any claim that the Service fails to conform to any applicable legal or regulatory requirement; and (3) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third-party claim that the Service and/or your possession and use of the application infringe that third party's intellectual property rights.

You agree to comply with any applicable third-party terms, when using the Service. Apple, and Apple's subsidiaries, are third party beneficiaries of the Terms, and upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms against you as a third party beneficiary of the Terms. You hereby represent and warrant that (1) you are not located in a country that is subject to a U.S. Government embargo, or that has been

designated by the U.S. Government as a “terrorist supporting” country; and (2) you are not listed on any U.S. Government list of prohibited or restricted parties.

## **20. Miscellaneous**

We reserve the right to modify and update the Terms at our sole discretion, at any time, for any reason, and without liability. We also reserve the right to modify or update the operation and/or functionality of the Services at our sole discretion, at any time, for any reason, and without notice or liability. We may even suspend the Services entirely, in which event we will notify you in advance unless extenuating circumstances, such as safety or security concerns, prevent us from doing so.

The Terms constitute an agreement between you and us regarding the use of the Services. The parties acknowledge that no reliance is placed on any representation or statement made but not expressly contained in the Terms.

Nothing in the Terms will create any relationship of partnership, agency or employment between you and us.

If any provision of the Terms is found to be unenforceable or invalid, that provision shall be limited, modified or eliminated to the minimum extent necessary so that the Terms shall otherwise remain in full force and effect and enforceable.

No waiver of the Terms will be valid unless agreed in writing by us.

You may not assign the Terms or any rights or interest under the Terms or delegate any obligations to be performed under the Terms without SPARK’s prior written consent. SPARK can assign its rights and obligations under the Terms to selected third parties without your consent, including but not limited to, in cases of corporate reorganisation, merger, acquisitions, sale or transfer of all or substantially all of company assets.

The Terms (and all non-contractual obligations arising out of or in connection with them) shall be governed in all respects by the substantive laws of England and Wales. You agree that the courts of general jurisdiction located in England and Wales will have exclusive jurisdiction over any and all disputes arising out of or relating in any way to the Terms of the Services.

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