

**For information about how your personal data is collected and used,
please see our Privacy Notice**

DOTS PLATFORM TERMS AND CONDITIONS OF SERVICE

Last updated: 1 April 2021

1 WHO WE ARE AND WHAT THESE TERMS DO

- 1.1 The Drumcondra Online Testing System (the “**Platform**”) is provided to you by the Educational Research Centre, a statutory body established under section 54 of the Education Act 1998. Our registered office is DCU, St. Patrick’s College Campus, D09 AN2F Ireland (“**ERC**”, “**us**”, “**we**”, “**our**”).
- 1.2 When we say “you” in these Terms, we mean you, as the Principal or other authorised representative of the school, and the school that employs or engages you.
- 1.3 These terms and conditions (“**Terms**”) together with the [Data Processing Addendum](#) apply to the order by you and supply of testing and/or scoring services by us through the Platform (“**Services**”). They apply (as amended from time to time in accordance with clause 8) until you cease to hold an account with us.
- 1.4 These Terms apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing.
- 1.5 By accepting these Terms, you confirm that the school that employs or engages you has given you authority to: (i) accept these Terms on behalf of the school; and (ii) give us instructions on its behalf (e.g. regarding the processing of the personal data hosted and processed on the Platform as set out in the Data Processing Addendum) and receive notifications we send you (such as under the Data Processing Addendum).

2 CREATING AN ACCOUNT

- 2.1 To place an order through the Platform, you must register and create an account by providing your name, details of the school you work for and other requested information as prompted by the account creation and registration process. You promise that all information you provide is true, accurate and complete.
- 2.2 As the account administrator, you have control over which staff members in your school can conduct tests through the Platform (you and each authorised staff member is an “**Authorised User**”). You must create separate log-in credentials for each staff member that uses the Services.
- 2.3 It is your responsibility to ensure that User’s details are accurate, and that the list of Authorised Users in your school is up-to-date. If there is any change to your or any other Authorised User’s information, you should ensure that these details are updated in the (Admin) section of the Platform.
- 2.4 You are responsible for safeguarding your login details that you use to access your account and for any actions taken by any Authorised User through your account.

2.5 Each Authorised User will be required to agree to the End User Licence Agreement prior to using the Services.

2.6 You can cancel your account at any time by using the 'Erase Account' button within your profile.

3 PLACING ORDERS

3.1 Please read the description of each test carefully before placing your order.

3.2 Please check your order carefully before finalising and submitting it. If you discover an error after you have placed your order, please [contact us](#) immediately.

3.3 Our acceptance of your order takes place when we send you an email acknowledging that your order has been accepted. We will also send you an electronic invoice noting that payment has been discharged.

3.4 If we are unable to supply you with the Services for any reason, we will inform you of this by email and we will not process your order. If you have already paid for the Services, we will provide you with credit to use on the Platform or, at your request, refund you the full amount.

4 PAYMENT

4.1 Any order placed through the Platform must also be paid for through the Platform. We currently accept payment by debit card or credit card.

4.2 Delivery costs, if applicable, will be calculated during the checkout process.

4.3 The prices advertised are exclusive of VAT. Where VAT is payable, this will be calculated during the checkout process prior to purchase.

4.4 It is possible that, despite our reasonable efforts, some of the Services on our site may be incorrectly priced. If the correct price for the Services is higher than the price stated on the Platform, we will contact you in writing as soon as possible to inform you of this error and we will give you the option of continuing to purchase the Services at the correct price or cancelling your order.

5 CHANGE TO AVAILABLE TESTS

5.1 We may change the type of tests made available through the Platform from time to time. Where we are discontinuing a particular type of test, we will give you advance notice of this. This will not affect: (a) the scoring of any test previously ordered; or (b) any test results or any other personal data stored by the ERC on your behalf.

6 AVAILABILITY AND SUPPORT SERVICES

6.1 We work hard to try to keep the Platform and the Services available to Authorised Users and students from 9am to 6pm Monday to Friday. Sometimes parts or all of the Platform or its functionality may not be available during these hours (for example, if we need to carry out important maintenance to fix issues and make sure the Platform functions properly or if one of our technology providers suffers an outage).

6.2 If you want to learn more about the Platform or have any problems using it you should take a look at our FAQs, available at www.tests.erc.ie, and support resources available through the Platform.

6.3 If you are still experiencing issues, please [contact us](#).

7 YOUR RESPONSIBILITIES

7.1 It is your responsibility to select, obtain and pay for internet and network access (including excess charges if you exceed any data caps) and any equipment, internet access or services necessary to download, use and access the Platform. We are not responsible for the failure of such internet or network services. You acknowledge that the quality and bandwidth of your internet or network service will affect the quality and speed of access to and use of the Platform.

7.2 You are responsible for ensuring that the devices and operating systems used by Authorized Users meet the minimum specifications and are configured correctly to use the Platform.

8 CHANGES TO THESE TERMS

8.1 We may need to change these Terms and the Data Processing Addendum from time to time. We will notify you of any change by posting them on the Platform, sending you an in-Platform message or by other means such as by sending an email using the contact details you have provided to us. Changes are effective from the date specified by us at that time.

8.2 By using or accessing the Platform after the changes take effect you agree to be legally bound by the amended Terms. If you do not accept the notified changes you will not be permitted to continue to use the Platform.

9 DATA PROCESSING

9.1 We process the test results as a data processor on behalf of the relevant school and will comply with the terms of the [Data Processing Addendum](#) (as may be amended from time to time in accordance with clause 8).

10 CONFIDENTIALITY

10.1 We each undertake that we will not at any time disclose to any person any confidential information concerning one another's business, affairs, customers, clients or suppliers, except as permitted by the [Data Processing Addendum](#) or clause 10.2.

10.2 We each may disclose the other's confidential information:

10.2.1 to such of our respective employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising our respective rights or carrying out our respective obligations under these Terms. We will each ensure that such employees, officers, representatives, subcontractors or advisers comply with this clause 10; and

10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 10.3 Each of us may only use the other's confidential information for the purpose of fulfilling our respective obligations under these Terms.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 All intellectual property rights in the Platform and the Services belong to us or our licensors and the rights in the Platform are licensed (not sold) to you. You have no intellectual property rights in, or to, the Platform other than the right to use them in accordance with these Terms. All rights in the Platform are reserved.
- 11.2 We agree to grant you a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use the content and materials specified in your order for the sole purpose of receiving and using the Services and such content and materials in your school. You may not sub-license, assign or otherwise transfer the rights granted in this clause.
- 11.3 You agree to grant us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any content or materials provided by you to us for the purpose of providing the Services to you.

12 LIABILITY

- 12.1 We do not exclude or limit in any way our liability to you where it would be unlawful to do so, including for fraud or fraudulent misrepresentation.
- 12.2 **Limitations to the Platform.** The Platform is provided to assist schools in the administration and efficient scoring of certain tests available through the Platform. We are not responsible for any decision made by you or any Authorised User connected with your use of the Platform or the Services. We do not check whether the information provided by Authorised Users in using the Services is accurate, up-to-date, complete, representative or otherwise. We make reasonable efforts to ensure the information specifically provided by us through the Platform is correct, but we make no representations, warranties or guarantees, whether express or implied, that such information is accurate, complete or up to date or that the Platform or the Services will meet your expectation or requirements. We do not guarantee that: (a) the Platform (or any part of it) will always be available, secure, error-free, timely, or that defects will be corrected; or (b) the Platform or the systems or servers that make it available will: (i) operate in combination with any other hardware, software, system or data; or (ii) be free from viruses, bugs or other harmful elements. All terms, conditions, warranties and similar implied by law, statute, custom or otherwise (including under section 39 of the Sale of Goods and Supply of Services Act 1980) are excluded to the maximum extent permitted by law.
- 12.3 **We are not responsible for events outside our control.** We are not liable for, or responsible if, our provision of the Platform, the Services or any other responsibility we have under these Terms is hindered, delayed or otherwise impacted by an event outside our reasonable control.
- 12.4 **We are not liable for certain losses.** We will have no liability to you for (a) any loss of profit, loss of business, damage to reputation, loss of sales or revenue, loss of contracts, loss of goodwill, loss of use or corruption of data or loss arising out of or in connection with a personal data breach, loss of anticipated savings, business interruption, claims by a student, parent or others, or loss of business opportunity; or (b) any indirect or consequential loss, costs, damages, charges or expenses; in

each case whether or not reasonably foreseeable and even if advised of its possibility.

12.5 **Our liability to you is limited.** We believe it is fair and reasonable to limit the total amount of liability we have to you. To the extent allowed by applicable law, the total aggregate liability of us to you for all losses, damages and claims arising out of or in connection with these Terms; any Authorised User's use of the Platform; or your use of the Services, will not exceed the amount that you paid for any Services through our Platform in the 12 months preceding your claim.

12.6 **Application.** The limitations and exclusions in these Terms apply to all losses, damages or claims arising out of or in connection with these Terms or your use or access of the Platform or any breach, acts or omissions of our subprocessors, whether in contract, tort (including negligence), under statute, or under any other cause of action.

12.7 **Your Responsibility.** You are responsible for all of the acts or omissions of each Authorised User (or any person who uses the credentials of any Authorised User to access the Platform or the Services) and students on the Platform as if such acts or omissions were your own.

13 TERMINATION

13.1 Without limiting any of our other rights, we may suspend the performance of the Services, or terminate your agreement with us immediately by giving written notice to you if:

13.1.1 you commit a material breach of any term of these Terms and (if such a breach is remediable) fail to remedy that breach within 30 days of you being notified in writing to do so; or

13.1.2 you fail to pay any amount due in respect of any order through the Platform on the due date for payment.

13.2 If we end your rights to use the Platform or the Services, we will delete your account.

13.3 You may stop using the Services and/or delete your account on the Platform at any time. You will be responsible for any outstanding payment due for Services at the time of termination.

14 UPDATE AND CHANGES TO THE PLATFORM

14.1 From time to time we may automatically update the Platform to improve or modify performance and functionality, reflect changes to the operating system or address security issues.

14.2 We may change (including by removing feature and benefits), stop or suspend the form, nature, features and functionality of the Platform from time to time (for individual users, categories of users or all users). If these changes will materially and negatively affect the type of Services available through the Platform, we will give you prior notice of the change.

15 OTHER IMPORTANT TERMS

- 15.1 If we have to contact you we will do so by email using the contact details in the Profile section of your account.
- 15.2 Each of the sections of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining sections will remain in full force and effect.
- 15.3 Any failure by us to exercise or any delay by us in exercising a right or remedy does not constitute a waiver of that right or remedy or of any other rights or remedies. A waiver by us of any breach of, or any default under, any provision of the Terms is not a general waiver or a waiver of any subsequent default or breach and in no way affects the other terms of the Terms.
- 15.4 We may transfer our rights and obligations under these Terms to another organisation. You may not transfer the Platform or your user account to anyone else, whether for money, for something else, or for free.
- 15.5 These Terms constitute the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between you and us, whether written or oral, relating to the Platform.
- 15.6 The existence, formation, interpretation, operation and termination of these Terms and any matters or disputes arising out of or in connection with them (whether contractual or non-contractual), are governed by and interpreted in accordance with the laws of Ireland. The Courts of Ireland will have exclusive jurisdiction on any matter or dispute (whether contractual or non-contractual) between you and us arising out of or in connection with the Platform, the Services or the Terms.

16 CONTACT US

- 16.1 If you have any queries relating to the Platform or the Services, please contact our support desk. The support desk is open from 9am to 5pm, Monday to Friday (excluding public holidays). You can contact the support desk by email at [**dots@erc.ie**](mailto:dots@erc.ie).