



**Quote**

Quote must be attached to Purchase Order  
F.O.B Shipping Point

**To:** Boone County Schools

**Address:** 8330 US Highway 42  
Florence, Kentucky 41042

**ATTN:** Dana Dirkes

**Date:** Sept 18, 2020

**Valid Until:** October 18, 2020

Texthelp Inc.  
500 Unicorn Park Dr. Floor 4  
Woburn, MA 01801

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Fax: 866-248-0652  
Email: u.s.info@texthelp.com

Fed Tax ID# 06-1622277

Texthelp Contacts:  
Marc Callahan  
Rebecca McCarron  
r.mccarron@texthelp.com

Quantity	Item	Type of License/Training	License Description:	Additional Information	Unit Price	Extended Price
40	Fluency Tutor for Google™	Single	12 month renewable premium Single license Fluency Tutor for Google subscription.	Volume tier pricing applied for purchasing 10 or more single subscriptions.  Retail cost \$99 each	\$89.00	\$3,560.00

	Sub Total	\$3,560.00
	Sales Tax	\$0.00
	Total	\$3,560.00

**Note: Credit card payments will only be accepted for purchases of \$1000 or less, no credit card fees will be assessed.**  
**Note: A copy of the Tax Exempt ID Certificate must accompany order if applicable, otherwise sales tax may be charged.**

**By using these products you are hereby agreeing to the terms of the relevant product End User License Agreements. These can be found at [support.texthelp.com/help/end-user-license-agreements](http://support.texthelp.com/help/end-user-license-agreements)**

**Resources Included with Subscription:**

Email (support@texthelp.com) and telephone technical support (888-248-2479)

Online Support Forum/Knowledgebase

Training and Implementation resources including Feature & How to Videos, Getting Started Guides, Toolmatcher, Training Portal, Product Certification, Live & Recorded webinars, and Google + Communities

Professional Development/Implementation User Consultation (for New Group and Unlimited Subscriptions)

Product Updates and Enhancements

Additional Professional Development Offerings available for purchase

**Quotation Prepared by:**

Rebecca McCarron

**Quotation Approved by:**

**Texthelp Representative Signature:**

**Customer Representative Signature:**

**Confidential & Proprietary**



# Fluency Tutor User Terms & Privacy Policy

## IMPORTANT NOTICE:

**If you are under the age of 13, you must not use Fluency Tutor without first getting your school, parent or guardian to agree to these User Terms.**

*Please take time to read the provisions below carefully, because they are legally binding. Provisions which are **italicised** are particularly important: these include the provisions governing content you upload in **clause 5**, the restrictions in **clause 6**, which are important to protect our ownership of intellectual property rights in Fluency Tutor, and the limitations of liability in clause **11**. Finally, please note that Fluency Tutor offers in-app purchases to which these terms of use relate.*

## 1. USER TERMS

1. These terms (the **User Terms**) form a binding legal agreement between you and Texthelp Ltd, Lucas Exchange, 1 Orchard Way, Antrim, BT41 2RU, company registration number NI031186 (**we, us, our**), and relate to how you may use the downloadable Fluency Tutor web application (the **App**), along with any content purchased through the App (such content, together with the App, referred to as **Fluency Tutor**). By accepting these User Terms you agree to be bound by their effect.
2. Fluency Tutor may be made available to you over various third party software application distribution platforms. Any such third party may require us to impose contractual terms between you and us in addition to these User Terms. In the event that any such provisions are imposed, you undertake fully to comply with the same and such terms shall be deemed part of these User Terms.

## 2. ACCEPTING THE USER TERMS

In order to use Fluency Tutor, you must first agree to these User Terms. You may not use Fluency Tutor if you do not accept the User Terms. You can accept the User Terms by:

1. clicking to accept or agree to the User Terms, where this option is made available to you by us in the user interface provided to you; or
2. by actually using Fluency Tutor. In this case, you understand and agree that we will treat your use of Fluency Tutor as acceptance of the User Terms from that point onwards.

## 3. USE OF FLUENCY TUTOR BY YOU AND STUDENTS

1. In consideration of the fulfilment by you of the obligations imposed on you by these User Terms, we grant you a non-exclusive, non-assignable, non-transferable non-sublicensable licence for the duration of the agreement created by these User Terms to use Fluency Tutor.
2. You agree not to access (or attempt to access) any part of Fluency Tutor by any means other than through the interface that is provided by us. You specifically agree not to access (or attempt to access) any part of Fluency Tutor through any automated means, including use of scripts, robots, spiders, scrapers or web crawlers. You agree that you will not:
  - (a) take any action that imposes, or may impose (in each case in our sole discretion) an unreasonable or disproportionately large load on our infrastructure;
  - (b) copy, duplicate, reproduce, rent, lease, loan, sell, trade, resell, modify, create derivative works distribute or publicly display any part of Fluency Tutor without prior written consent from us and any third party determined by us as appropriate;
  - (c) interfere or attempt to interfere with the proper working of Fluency Tutor or any activities conducted via Fluency Tutor; and
  - (d) bypass any measures we may use to prevent or restrict access to Fluency Tutor; and
  - (e) attempt to reverse engineer, decompile or otherwise seek to obtain access to the source code in Fluency Tutor.
3. You agree that you will not engage in any activity that interferes with or disrupts Fluency Tutor, or the servers and networks which are connected to Fluency Tutor.
4. *The whole point of Fluency Tutor is to allow teachers to use it with their students. If you use Fluency Tutor to monitor/review students reading, to set them reading tasks, to control what content the students will have access to, and/or to make use of analytics/data tools on Fluency Tutor, then you are considered a **Teacher User**. We also provide services aimed at students that don't include most of the Teacher User features and allow you to focus on the reading tasks and those functions that assist with your reading. Such a user would be considered to be a **Student User**. If you are:*
  5. *a Teacher User, you undertake that prior to interacting with any Student User through Fluency Tutor you will make this privacy notice available to them and procure that Student User's agreement, and where such Student User is under the age of 13, their parent's or guardian's agreement, to be bound by these User Terms on their behalf, as if 'you' and 'your' referred to that person where appropriate. You acknowledge and agree that it is your sole responsibility to procure such compliance.*
  6. *under the age of 13, you must not use Fluency Tutor without your parent or guardian's consent to be bound by these User Terms on your behalf. In the event that you have obtained such consent, these User Terms shall apply as if 'you' and 'your' refers to your parent or guardian where appropriate.*

#### 4. FEES AND ACCOUNT SECURITY

1. Any fees payable by you will be charged via your chosen method of payment. All transactions will be processed via third party providers. These third party providers will have their own security policies and terms and conditions. You should read these before using any such third party software.
2. You grant us the right to (but acknowledge that we are not obligated to) audit your use of Fluency Tutor, so as to ensure compliance by you with these User Terms.
3. You represent and warrant to us that any and all information provided by you is true, accurate and complete. You undertake to notify us promptly of any changes to such information. You agree not to impersonate any other person or entity or to use a false name or a name that you are not authorised to use. We reserve the right to decline any

application from you to register as a user of Fluency Tutor in our sole discretion and/or to suspend your use of Fluency Tutor if in our sole discretion believe that you are in breach of any provision of these User Terms.

4. You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access Fluency Tutor. Accordingly, you agree that you will be solely responsible to us for all activities that occur under your account, as determined, noted, or recorded by us. Such determination, notation, and record shall be at our sole discretion, and shall serve as conclusive proof of the facts stated therein and to which they attest.
5. If you become aware of any unauthorised use of your password or of such accounts, you agree to notify us immediately at [support@texthelp.com](mailto:support@texthelp.com).

## 5. **USER CONTENT**

*Fluency Tutor allows you to use its features in conjunction with content taken from other sources. Some content may be subject to separate terms of use and/or laws. Some countries have exemptions that allow you to copy content for educational purposes. You should seek appropriate legal advice if you are unsure if your use is permitted.*

1. *You agree that you are solely responsible for (and that we have no responsibility to you or to any third party for) any content that you create, upload, transmit and/or display while using Fluency Tutor (any and all such content **User Content**) and for the consequences of your actions (including any loss or damage which we may suffer) by doing so.*
2. *By submitting, posting or displaying **User Content** you give us and other Fluency Tutor users a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to use, store, share and make available that User Content through Fluency Tutor.*
3. *You acknowledge and agree that, in performing the required technical steps to provide Fluency Tutor to other users, we may:*

*(a) transmit or distribute User Content over various public networks and in various media; and*

*(b) make such changes to User Content as are necessary to conform and adapt that User Content to the technical requirements of connecting networks, devices, services or media.*

1. *You acknowledge and agree that we have the exclusive right to, un-publish, take offline, delete, archive, prohibit, ban, or otherwise remove User Content that, in our sole opinion, does not relate or bears no relation, or, in any manner or form, is improper or inappropriate to Fluency Tutor (including any User Content which, in our sole discretion, places or may place you in breach of the warranties given by you at clause 4.5).*
2. *By uploading any User Content you represent and warrant that:*
3. *you have all the rights, power and authority necessary to grant the license at clause 4.2;*
4. *you have the lawful right to upload, reproduce and distribute such User Content;*
5. *the uploading, downloading, posting, emailing or transmission by any other means of the User Content will not constitute or encourage a criminal offence, violate the rights (including without limitation intellectual property rights) of any party or otherwise create liability or violate any local, state, national or international law; and*
6. *the User Content posted by you will not be unlawful, harmful, threatening, abusive, vulgar, harassing, defamatory, obscene, pornographic, indecent, inflammatory, libelous, tortious, hateful, or racially, ethnically or otherwise objectionable, or invasive of another's rights including rights of celebrity, privacy*

and intellectual property. We reserve the right, but have no obligation, to remove any such User Content as described in this clause 5.5.

7. You shall indemnify us, without limitation and upon demand, against any cost, damages or expenses (including reasonable legal expenses) that may be incurred by us either (a) as a result of any breach by you of the warranties detailed in clause 4, and/or (b) in respect of any claim or action that the use of any User Content infringes intellectual property rights or is otherwise unlawful or objectionable.

## **6. INTELLECTUAL PROPERTY**

**You are not allowed to copy or sell our IP or any other third party IP you access through Fluency Tutor, without getting the owner of the IP's permission first.**

1. Fluency Tutor contains a range of information (including stories, templates, fonts, text, data files, video, audio and graphics and other content) (**Fluency Tutor Content**) which is protected by copyrights, trademarks and other forms of Intellectual Property Rights recognized and protected by national and international laws. All such rights are reserved. You agree to comply with all such laws as are applicable to you.
2. Except as permitted by the User Terms, you may not copy, or make any use of any part of the Fluency Tutor Content or use any such Intellectual Property Rights for any purposes. In particular you may not modify, rent, lease, loan, sell, distribute or create derivative works based on the Fluency Tutor Content (either in whole or in part) unless you have been specifically permitted to do so by us.
3. You may not use any of the fonts, trademarks, trade names, service marks, copyrights, logos, domain names and other distinctive brand features belonging to us or any third party unless you have valid written permission to do so. You agree not to alter, remove or obscure any proprietary rights notices (including copyright and trademark notices) which may appear in or be held within Fluency Tutor.
4. In the User Terms, **Intellectual Property Rights** shall mean all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, database rights, patents, patent applications, patent rights, rights in designs, trademarks, trademark applications, trademark registrations, trademark rights, trade secrets, fonts, typefaces and all other intellectual property and proprietary information rights as may exist now or hereafter come into existence, all modifications, continuations, renewals and extensions of the foregoing, and all claims, actions, causes of action, damages, costs, expenses, profits, penalties, recoveries and remedies relating to any past, present or future infringement of any of the foregoing, arising under the laws of any country, state or jurisdiction in the world.
5. You further acknowledge that Fluency Tutor may contain information which is designated confidential by us and that you shall not disclose such information without our prior written consent.
6. Fluency Tutor also contains a range of information created by other third parties (including stories, text, images, video, audio and other content) (**Third Party Content**) which is protected by copyrights, trademarks and other forms of intellectual property rights recognized and protected by national and international laws. You agree to comply in your use of Third Party Content with all such laws as are applicable to you.
7. You undertake to indemnify us, on demand, without limitation, for any and all loss that we or any third party may suffer in connection with your breach of any obligation imposed on you by this clause 6.

## **7, PRIVACY**

1. Your use of Fluency Tutor, including any registration process, may involve your disclosure to us of personal data (which term shall include sensitive personal data) relating to data

subjects (**personal data, sensitive personal data** and **data subjects** each as defined by the Data Protection Act 1988). In the event that you do so disclose such personal data you:

1. warrant and represent to us that you have secured all consents and permissions, and have taken all actions necessary, as may be required by applicable law for the purposes of disclosure to us and subsequent use by us of any such data relating to third parties in the provision of Fluency Tutor in accordance with our [Privacy Policy](#) and
2. in relation to any personal data relating to you, you consent to the use of such personal data in accordance with our [Privacy Policy](#).

## 8. GDPR Compliance & International Data Transfers

Texthelp Billing & Contact Data is stored in Amazon Web Services (AWS) which meets the EU-US Privacy Shield framework adopted by the European Commission. This complies with data protection requirements and GDPR legislation when transferring data outside of the EU. By accepting these terms you accept that Texthelp may transfer and process information in a USA based EU-US Privacy Shield compliant data center, and in accordance with the Texthelp ISO 27001:2013 data security policies.

## 9. COPPA and Parental Consent for USA Education Customers

If Licensees allow students under the age of 13 to use the Services, Licensees consent as required under the Children's Online Privacy Protection Act to the collection and use of personal information in the Services, described in the Texthelp ISMS 1.2 Information Security Policy.

## 10. TERMINATION

1. We may at any time and for any reason (including without limitation for your breach of the User Terms, your bankruptcy or insolvency and/or where the provision to you of Fluency Tutor is in our sole opinion no longer commercially viable) terminate our legal agreement with you and the supply to you of Fluency Tutor. The provisions of clauses 5, 6, 7, 8, 9 and 12 shall survive termination of the Fluency Tutor. We reserve the exclusive right and prerogative to retain, maintain, archive, protect, use, or store any and all data or information after termination, without regard as to time or duration, as we may deem reasonable or necessary in the pursuit of our business or interests, or in protecting such business or interests.

## 11. LIMITATION OF LIABILITY

1. *Nothing in these User Terms, including this clause 8, shall exclude or limit any warranty or liability which may not be lawfully excluded or limited by applicable law, including liability for fraud or for death or personal injury caused by our negligence.*
2. *You acknowledge that we are not under an obligation to police any User Content or Third Party Content submitted to Fluency Tutor. If you find anything unlawful or offensive you can notify us at [support@texthelp.com](mailto:support@texthelp.com).*



3. *You acknowledge that we have no control over the User Content or Third Party Content published. The amount created, the availability and any delays in publication of such User Content or Third Party Content are the sole responsibility of the respective party uploading the content. We therefore exclude any and all liability to the maximum extent permitted by applicable law in relation to any act or admission of any third party.*
4. *Fluency Tutor is NOT a back up service. In particular, you acknowledge and agree that no refund will be due to you from us in the event of service failure, and you further acknowledge and agree that since we have no control over the content and/or quality of content (including User Content and Third Party Content) this limitation of our liability to you is reasonable.*
5. *Fluency Tutor may contain third party cookies to enhance your user experience. You acknowledge and agree that we are not liable in relation to such third party cookies and that they are the sole responsibility of the third party cookie provider. Such third party cookies will be governed by their own terms and privacy policies, so you should read these before giving your consent to enable these third party cookies.*
6. *There are no conditions, warranties, representations or other terms, express or implied, that are binding on us except as specifically stated in these User Terms (including implied warranties and conditions of merchantability, fitness for a particular purpose and non-infringement). Any condition, warranty, representation or other term concerning the supply of Fluency Tutor which might otherwise be implied into or incorporated in these User Terms, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.*
7. *You expressly understand and so agree that your use of Fluency Tutor is at your sole risk and that Fluency Tutor is provided "As Is" and "As Available."*
8. *In particular, we, our subsidiaries and affiliates, and our licensors, do not represent or warrant to you that:*
  1. *your use of Fluency Tutor (including its use in conjunction with any other software) will meet your requirements, that your use of Fluency Tutor will be uninterrupted, timely, secure or free from error or that defects in the operation or functionality of Fluency Tutor provided to you will be corrected; and*
  2. *any information obtained by you as a result of your use of Fluency Tutor will be accurate or reliable;*
  3. *any content (including User Content and Third Party Content) will be of any particular standard and/or quality (and we expressly disclaim any liability for any loss, damage, cost, claim and/or expense incurred by you and/or any third party as a result of your and/or their accessing such content via Fluency Tutor, including in respect of any claim or action relating to the infringement of intellectual property rights);*
  4. *that any content (including User Content and Third Party Content) will be accessible at any particular time;*
  5. *that Fluency Tutor will be secure or free from bugs or viruses; and*
  6. *that defects in the operation or functionality of the Fluency Tutor will be corrected, rectified, or remedied.*
9. *Any material (including User Content and Third Party Content) downloaded or otherwise obtained or accessed through the use of Fluency Tutor is done at your own discretion and risk, and that you will be solely responsible for any damage, loss, or prejudice to your computer system or other device or loss of data that results from the download or access of any such material.*

10. *In order for you to make full use of Fluency Tutor it may be necessary for you to use particular computer equipment or to download or install certain pieces of software. If you are unable to access all or part of Fluency Tutor because you do not have access to any necessary software or equipment, this shall not constitute a breach of these User Terms by us and we shall not be liable for any loss, damage or expense which may result from your inability to access Fluency Tutor.*
11. *No advice or information, whether oral or written, obtained by you from us or any of our subsidiaries, affiliates, officials, employees, or personnel, or through or from Fluency Tutor shall create any warranty not expressly stated in these User Terms. We shall not be under any liability whatsoever in respect of any inaccuracies or omissions in Fluency Tutor. All such liability is excluded by us to the fullest extent permitted by law.*
12. *You expressly understand and agree that we and our licensors shall not be liable to you for:*
  1. *any indirect, special, incidental or consequential loss or damage which may arise in respect of Fluency Tutor and/or its use or non-availability;*
  2. *loss of profit, business revenue, goodwill and anticipated savings;*
  3. *any trading or other losses which you may incur as a result of use of or reliance upon any content;*
  4. *the deletion of, corruption of, or failure to store, any content and other data maintained or transmitted by or through your use of Fluency Tutor;*
  5. *any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of Fluency Tutor or to your downloading of any content on it, or on any website linked to it; or*
  6. *any effect which use of Fluency Tutor may have on any software you use.*

13. *Our total aggregate liability for any loss, claim, cost, damages and/or expense incurred by you as a result of your or any third party's use of Fluency Tutor shall be limited to 100% of the last annual subscription fee paid by you to us. In the event that you have made no such payment, our total aggregate liability shall be £25. In view of the fact that you are not required to make any payment for the license granted under these User Terms, you acknowledge that this limitation on our liability is reasonable.*

14. *You agree and acknowledge that you are in a better position than us to foresee and evaluate any potential damage or loss which you may suffer in connection with the use of Fluency Tutor; that we cannot adequately insure its potential liability to you; and that accordingly the exclusions and limitations contained in this clause 9 are reasonable. You also undertake at all times to mitigate any such damage or loss.*

## 12. **LINKS**

1 We reserve the right to refuse applications to link to Fluency Tutor from people or organisations that we consider unsuitable. For further information or to request permission to link to Fluency Tutor please contact us.

2 Fluency Tutor may contain links that make it easy for you to visit other people's websites. We do not have any control over these sites, and we are not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from such sites or resources.

## 13. **GENERAL**



1. You shall not assign, transfer or sub-license any of your rights or obligations under these User Terms. We may at any time assign all or any of our rights and transfer all or any of our obligations under these User Terms.
2. Failure or neglect by us to enforce any of the provisions of these User Terms at any time shall not be construed or deemed to be a waiver of our rights nor shall this in any way affect the validity of the whole or any part of these User Terms, nor prejudice our rights to take subsequent action.
3. If any part of any provision of the User Terms shall be or become invalid, unlawful or unenforceable to any extent, then the remainder of such provision and all other provisions of the User Terms shall continue to be valid and enforceable to the fullest extent permitted by law.
4. The User Terms represent the entire agreement between you and us in relation to the subject matter of the User Terms and supersedes any previous agreement between you and us in relation to the User Terms. In the event of any conflict between these User Terms and any other terms relating to use of Fluency Tutor, the conflicting provisions of these User Terms shall take precedence over such other terms. Neither of you and us has relied upon any statement or representation made by the other in agreeing to enter this agreement.
5. Clause headings do not affect the interpretation of this Agreement, and references to a clause or the schedule are to clauses and the schedule to this Agreement. Words in the singular include the plural and in the plural include the singular, and references to any gender include all genders. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it. References to **including** and **include(s)** shall be deemed to mean respectively **including without limitation** and **include(s) without limitation**.
6. **LAW AND JURISDICTION**
  1. These User Terms shall be construed in accordance with Northern Irish law and the parties hereby submit to the exclusive jurisdiction of the Northern Irish courts to settle any disputes which may arise in connection with these User Terms.