



Issue Paper

DATE:

June 7, 2022

AGENDA ITEM (ACTION ITEM):

Consider/Approve the contract with Nearpod (Flocabulary) and White's Tower Elementary to purchase school license for Flocabulary that is a library of songs, videos and activities for K-12 online learning. Flocabulary is a learning program for all grades that uses educational hip-hop music to engage students and increase achievement across the curriculum.

APPLICABLE BOARD POLICY:

01.11 General Powers and Duties of the Board

HISTORY/BACKGROUND:

Flocabulary is a learning program for all grades that uses educational hip-hop music to engage students and increase achievement across the curriculum. Flocabulary is standards-based videos, instructional activities and student creativity tools to supplement instruction and develop core literacy skills.

FISCAL/BUDGETARY IMPACT:

\$2756.00 (White's Tower ESSER Funds)

RECOMMENDATION:


Approve the contract with NearPod (Flocabulary) and White's Tower to purchase teacher licenses for Brain Pop and Brain Pop Jr.

CONTACT PERSON:

Tony Procaccino


Principal/Administrator


District Administrator


Superintendent

*Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.
Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.*



Quote ID: 156627

Sales Order For:

Cynthia Casson
WHITES TOWER ELEMENTARY SCHOOL
2977 HARRIS PIKE
INDEPENDENCE, Kentucky 41051
UNITED STATES

Nearpod Contact:

Brett West
1855 Griffin Rd. Suite A-290
Dania Beach, FL 33004

If you are a Tax-Exempt Customer, please include your Sales Tax-Exempt Certificate with signed documents/proof of payment. Otherwise, applicable tax will be included in your invoice.

Purchase Orders should be addressed to:
Nearpod Inc.
1855 Griffin Road A-290
Dania Beach, FL 33004

Service Start: 05/01/2022

Service End: 04/30/2023

Description	Quantity	Total
Flocabulary Site License: Unlimited access to Flocabulary including: - Access to the 600+ standards-aligned K-12 lessons, including a hip hop video and supporting activities - Access to Week in Rap lessons, added weekly during the school year to spotlight current events - Access to student accounts, enabling teachers to assign lessons and activities and view results of assessments	550 - Students	\$2,756.00

Total	(USD) \$2,756.00
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Terms

This Sales Order is valid until:
Service will run from 05/01/2022 until 04/30/2023, or from when customer is first provided access to the purchased service(s) for a length of time equal to the time between the Start Date and End Date, whichever is later. The agreed upon price for this timeframe is (USD) \$2,756.00.

Nearpod price quotes are confidential, unless disclosure is required by subpoena or state law. Education List Pricing is only available for PreK-12 Education customers. Please submit this price quote attachment with your Purchase Order. Tax-exempt customers should include their tax-exempt number on their Purchase Order.

This Sales Order covers the Nearpod and/or Flocabulary Services described herein and is governed by the Nearpod Terms and Conditions available online at: <https://nearpod.com/terms-conditions>, the Nearpod Privacy Policy available online at: <https://nearpod.com/privacy-policy>, the Flocabulary Terms of Use available online at: <https://flocabulary.com/terms-of-use/>, and the Flocabulary Privacy Policy available online at: <https://flocabulary.com/privacy-policy/>, as applicable.

Training Policy

Training Cancellation Policy

Nearpod requests 48 hours notice to cancel or reschedule a confirmed session. If the session is not canceled but no one attends, this session will be considered expired.

Minimum Attendance Policy

Nearpod requests that at least 10 participants attend a confirmed training session. If there are fewer than 10 participants, the session may be modified and will not be recorded.

Free Training Resources

Access to daily public webinars, on-demand webinars and how-to resources and videos can be accessed here: <http://nearpod.com/resources>

Customers providing a Purchase Order are required to remit payment within 30 days of invoicing. Otherwise, payment is required within 7 business days. Failure to remit payment may cause a disruption in service. By signing this Agreement, I certify that I am authorized to sign on behalf of the Customer and agree to the Terms and Conditions of this Sales Order and any documents incorporated herein.

If you are a Tax-exempt customer, please include your Sales Tax-Exempt Certificate with signed documents/proof of payment. Otherwise, applicable tax will be included in your invoice.

Is a PO Required for Purchase? Yes / No

If Yes, please provide PO number below and submit PO with this Sales Order.

If No, please return this Sales Order with Signature below and indicate payment method.

Purchase Order (Net 30):

Please provide PO #: _____

If PO is not provided, payment is due immediately via Credit Card, Check, ACH, or Wire

Check, ACH or Wire

Credit Card

Please provide email address to receive
secure payment link: _____

Expiration Date: _____

Name on card: _____

Name: _____

Signature: _____

Date: _____

Tax Exempt #: _____

Purchase Orders should be addressed to:

Nearpod, Inc
1855 Griffin Rd. Suite A-290
Dania Beach, FL 33004
Email: brett.west@nearpod.com or FAX: +1 305-655-1999

**Request for Taxpayer
 Identification Number and Certification**

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Nearpod Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC

C Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner, unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶ _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

5 Address (number, street, and apt. or suite no.) See instructions.
1855 Griffin Road, A290

6 City, state, and ZIP code
Dania Beach, Florida 33004

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

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OR

Employer identification number

4	6	-	0	9	9	3	6	7	9
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Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ *Severin Henzler* Date ▶ 1/18/2022

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

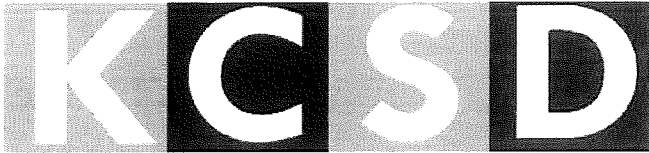
An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by broker)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.



Kenton County School District | It's about ALL kids

THE KENTON COUNTY BOARD OF EDUCATION

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: www.kenton.kyschools.us

Dr. Henry Webb, Superintendent of Schools

**VENDOR ASSURANCES REGARDING PROTECTION OF
PERSONAL AND CONFIDENTIAL INFORMATION**

Data Security and Breach Protocols

Vendors that receive Personal Information from Kenton County Board of Education (herein referred to as "KCBOE") as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account number, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by any agency as defined under the Act;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" includes any person or entity that has a contract or agreement with the KCBOE and receives (accesses, collects or maintains) personal information from the KCBOE pursuant to the contract or agreement.

The vendor hereby agrees to cooperate with the KCBOE in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, KCBOE, the Commissioner of the Kentucky State Police, the Kentucky Auditor of Public Accounts, the Commonwealth (Kentucky) Office of Technology, and the Commissioner of the Kentucky Department of Education of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)(2) applies and the vendor abides by the requirements set forth in that exception. Notification shall be in writing on a form developed by the Commonwealth (Kentucky) Office of Technology.

72 hours

The vendor hereby agrees to report to the KCBOE, immediately and within ~~twenty-four (24)~~ hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor hereby agrees that the KCBOE may withhold payment(s) owed to the vendor for any violation of the Act's notification requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any security breach as defined under the Act in accordance with KRS 61.933.

Upon conclusion of an investigation of a security breach as defined under the Act as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a), the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth (Kentucky) Office of Technology and that are reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

Student Data Security

Pursuant to KRS 365.734, if the vendor is a cloud computing service provider (which is defined pursuant to KRS 365.734(1)(b) as any person or entity other than an educational institution that operates cloud computing services) or, through service to the KCBOE, becomes the equivalent of a cloud computing service provider, the vendor further hereby agrees that:

- The vendor shall not process student data as defined pursuant to KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the vendor receives express permission from the student's parent. The vendor shall work with the KCBOE to determine the best method of collecting parental permission.
- With a written agreement for educational research, the vendor may assist the KCBOE to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. sec. 1232g.
- Pursuant to KRS 365.734, the vendor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
- Pursuant to KRS 365.734, the vendor shall not sell, disclose, or otherwise process student data for any commercial purpose.
- Pursuant to KRS 365.734, the vendor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Family Educational Rights and Privacy Act, National School Lunch Act and Child Nutrition Act

If during the course of this agreement, the KCBOE discloses to the vendor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. sec. 1232g, *et seq.*), and its regulations, and data protected by the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. sec. 1751 *et seq.*), and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. sec. 1771 *et seq.*), the vendor agrees that it is bound by and will comply with the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA.

72

The vendor hereby agrees to report to the KCBOE, immediately and within ~~twenty-four (24)~~ hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor agrees that FERPA-protected information is confidential information. FERPA-protected information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific

student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

Nearpod Inc.
Vendor Name

1855 Griffin Road, A290, Dania Beach, FL 33004
Vendor Address

305.677.5030
Vendor Telephone

vendorforms@nearpod.com
Vendor Email Address

Jose Carrera
Signature by Vendor's Authorized Representative

Jose Carrera
Print Name

06 / 03 / 2022
Date

\$2756.⁰⁰
ESSER
4952118-0650-
5546D
Flocabulary
rec'd from
Brett West 6/3/22
(Currently on hold-
M. Winkler)

TITLE	Kenton County
FILE NAME	KCBOE Vendor Assurance - Brett West.pdf
DOCUMENT ID	9d68e1387871b554415e92bce5d3faf8a0440a4e
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	• Signed

Document History



SENT

06 / 02 / 2022
16:27:14 UTC-4

Sent for signature to Jose Carrera (pep.carrera@nearpod.com)
from natalib@nearpod.com
IP: 23.120.203.225



VIEWED

06 / 03 / 2022
14:21:28 UTC-4

Viewed by Jose Carrera (pep.carrera@nearpod.com)
IP: 73.0.57.161



SIGNED

06 / 03 / 2022
14:21:47 UTC-4

Signed by Jose Carrera (pep.carrera@nearpod.com)
IP: 73.0.57.161



COMPLETED

06 / 03 / 2022
14:21:47 UTC-4

The document has been completed.

Flocabulary® Terms of Use

For a printable copy of these Terms of Use, please click [here](#).

If you are purchasing subscriptions to Nearpod, please refer to Nearpod's Privacy Policy, [here](#).

Welcome to flocabulary.com! If you continue to browse and use this website, you are agreeing to comply with and be bound by the following terms and conditions of use, which together with our [Privacy Policy](#) govern Nearpod's relationship with you in relation to this website. When you register for Flocabulary for a trial or paid plan for a class, school or district, or as a parent, you become a "User" and the learners who use Flocabulary through you are "Students".

PLEASE READ THESE TERMS OF USE CAREFULLY. If you disagree with any part of these terms and conditions, please refrain from using our website. We may update these Terms of Use from time to time, and may condition your continued use of our website and Content on your agreeing to those revised terms.

The term "Flocabulary", "us" or "we" refers to Flocabulary Inc., the owner of this website (which includes both Flocabulary.com and all of its subdomains) and its affiliated entity, Nearpod Inc. The term "you" refers to you, as a User, Student or Viewer of our website.

1. General terms

- The public portions of this website are provided for potential Users.
- Only school staff and parents or guardians may become Users. Do not register for Flocabulary as a User for a trial or paid plan unless you represent a class, school or district, or are a parent or guardian of a learner.
- School staff may invite students to participate in Flocabulary directly through individual accounts under certain plans: www.flocabulary.com/plans.
- If you are a school staff member and register for Flocabulary as a User for a trial or paid plan, you represent and warrant that you have the full right, power and authority to bind all Users connected to the registered account to these Terms of Use. Any subsequent purchase of a Flocabulary service by a User connected to the originally registered account shall constitute a ratification of these terms.
- Parents and guardians are permitted to share their accounts directly with their children to the extent they see fit.

- You may need to download additional software from third parties to view aspects of our website; if so, your use of such software will be governed by your agreement with those parties.
- You must comply with any Flocabulary policies regarding the acceptable use of Flocabulary with respect to student-generated content or Student-to-Student communication (our "AUP"); however, we may enforce our AUP in our sole discretion, and you may want to promulgate and enforce your own guidelines and policies above and beyond the Flocabulary AUP for Students and Users through your account using the content review and moderation tools provided by Flocabulary.

2. Student Accounts

- We comply with the Children's Online Privacy Protection Act, or "COPPA" by obtaining authorization from the applicable school or district for Students to use Flocabulary as described in these Terms and our Privacy Policy.
- If your plan includes the Student registration option and you enable it, you represent and warrant that you are authorized to give consent for us to receive the information you provide about Students and to collect the information about the Students described in our [Privacy Policy](#) (including with respect to children under the age of 16), and you authorize us to collect that information on behalf of such Students.
- Users are entirely responsible for the actions of Students. We will enable you to comply with the Family Educational Rights and Privacy Act (FERPA) by appropriately limiting how we use Student data and by following your instructions with respect to the treatment of Student data.

3. Commercial Terms

- The general terms of each subscription plan or free trial are available at www.flocabulary.com/plans.
- Free Trials
 - Free trials are not available to anyone under the age of 18.
 - You may only register as an individual for the 14-day Free Trial Offer once.
 - Representatives of schools and districts may request one or more trial periods as needed to evaluate Flocabulary, which will be granted in our sole discretion.
 - By registering for a free trial, you consent to our contacting you to follow up on your experience with Flocabulary and potential purchase of a paid license.
- Plans paid with a credit card:
 - By providing your credit card to pay for a paid plan, you agree to pay us the fees indicated for that plan.

- Payments will be charged on the day you sign up for a service and will cover the use of that service for the time period specified for the requested plan.
- Plans (other than school-wide or district plans) that are not cancelled before the end of the applicable subscription period will automatically renew and you authorize us to collect the then-applicable subscription fee for such service using any credit card or other payment mechanism we have on record for you.
- Subscription fees are non-refundable, though a subscription can be canceled anytime. If you cancel your subscription, you will have access until your next billing date and will not be billed again.
- Plans paid for with a purchase order:
 - These Terms of Use and any Flocabulary Order Form you sign with us, and not the conflicting terms of any purchase order or other communication from you, shall govern your use of the website and the Content. The terms of a Flocabulary Order Form shall control over these Terms of Use.
 - By submitting a purchase order, you agree to pay in full within 30 days of receiving an invoice from us, unless otherwise specified in a Flocabulary Order Form. There will be no late fees.

4. Usage

- You may not use our website or the Content in any of the following ways:
 - for any commercial purpose without our prior express permission;
 - in a manner that could damage, disable, overburden, or impair our servers or networks;
 - by obtaining unauthorized access;
 - using any automated tools, scrapers, robots, data mining or similar data gathering or extraction tools; or
 - that infringes the rights of any third party, including the intellectual property of any third party.
- Except as expressly permitted by these Terms of Use and your plan, you may not share, post, publish or transfer usernames, passwords or any other account authentication information to anyone.
- You may not post Usernames or Passwords on any website. You may only post class codes and activation links on password protected websites accessible by only your school community. They may not be posted on public websites.
- You are responsible for ensuring that Students comply with these usage terms.

- We reserve the right to adopt and enforce other appropriate usage guidelines for Generated Content from time to time.

5. Intellectual Property and License

- We provide (or may at some point provide) data, text, software, music, sound, photographs, graphics, video, messages, tags, or other materials ("Content") to you.
- As between you and us, we own the Content and any improvements to the Content.
- We make no claim to new data, text, software, music, sound, photographs, graphics, video, messages, tags, or other materials created by you or Students through this website ("Generated Content"). You hereby grant us (for yourself and on behalf of Students) a royalty free, non-exclusive, perpetual irrevocable, worldwide license to use, copy, display, and modify the Generated Content and make the Generated Content available to other Users and Students on this website in a manner consistent with these terms and our [Privacy Policy](#).
- The plans we offer specify what Content you can access, who may access the Content through you and the number and/or type of devices you may use to access the Content.
- We grant to you (and, where applicable, your Students) a non-exclusive license to view and display the Content for only so long as we make it available to you under your plan through the website.
- With the exception of certain beats, worksheets, quizzes and lesson plans which are clearly labeled as being intended for download, under no circumstances do you acquire the right to view any of the Content other than through our website, or to download or copy the Content, no matter what plan you subscribe to. You and your Students may download your own Generated Content as provided for in our [Privacy Policy](#).
- We reserve the right to change the Content we make available to particular Users or Students at any time, at our sole discretion.
- If you provide any suggestions for Content or improvements to Content or our website, you grant us a royalty free, non-exclusive, perpetual irrevocable, worldwide non-exclusive license to use, copy, display, and modify those suggestions in any manner we choose.

6. Warranty Disclaimer

- We provide the Content in the hope that it will be educational and appropriate for a wide range of learners. You must determine during your trial period and thereafter whether the Content (and which Content) meets your needs and those of your learners.

- We don't guarantee that the website will be continuously operational, and we assume no liability relating to interruptions in your use of our website or errors in the Content.
- Accordingly, this website and all Content is provided on an "as is" basis, and your use (and Students' use) of this website and the Content is at your and their own risk, without warranties of any kind, express, statutory or implied, including without limitation any implied warranties of merchantability, fitness for a particular purpose or non-infringement.
- We disclaim any warranty or liability for the accuracy, timeliness, performance, completeness or suitability of the Content and any information and materials found or offered on this website for any particular purpose. You acknowledge that such information and materials may contain inaccuracies or errors and we expressly exclude liability for any such inaccuracies or errors to the fullest extent permitted by law.

7. Limitation of Liability

- Neither Flocabulary nor any of its officers, directors, employees, partners, agents, affiliates or licensors be liable to you or any other person for any indirect, incidental, special or consequential damages arising out of or relating to your use of our website or Content.
- If you are not currently a User under a paid plan with Flocabulary, your sole and exclusive remedy for our negligence or breach of these terms shall be for you to discontinue your use of our website and Content.
- If you are a User under a paid plan with Flocabulary, our maximum liability to you (for any claim whatsoever, including direct claims or claims for indemnification) shall be the aggregate amount that you paid us within the prior 12 months.
- If any of the foregoing limits are not enforceable under applicable law, then they shall be construed to provide such limits to the fullest extent permitted by applicable law.
- From time to time, this website may also include links to other websites. These links are provided for your convenience to provide further information. They do not signify that we endorse such websites and you waive all claims against us from your use of such websites.

8. Indemnification

- You agree to indemnify us and our officers, directors, employees, partners, agents, affiliates and licensors from all liabilities, claims, and expenses, including attorneys' fees, that arise from your use or misuse of our website and Content. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise

subject to your indemnification, in which event you will cooperate with us in asserting any available defenses.

9. Termination

- We may immediately (or as of a date specified in a notice) suspend or terminate your plan and your access to this website and the Content if you violate these Terms of Use or any of our published policies.

10. Jurisdiction

- These Terms Use and your use of this website and the Content will be governed by the law of the state of Kenton County and Kentucky (except for its rules regarding conflict of laws).
- Any claim or dispute relating to these Terms of Use must be resolved exclusively by a state or federal court of applicable jurisdiction located in Kenton County and Kentucky.
- This means that you may not bring a claim anywhere else, and that claims against you may be brought in Kenton County and Kentucky You may not subsequently argue that Kenton County and Kentucky is not a convenient forum for you.

11. Miscellaneous

- Notices to you under these Terms of Use shall be sent to you at the email address you have registered with us.
- Notices to Nearpod should be sent to:
Nearpod Inc.
1855 Griffin Road, A-290
Dania Beach, FL 33004
privacy@nearpod.com

We may assign these Terms of Use to an affiliate, pursuant to a merger or acquisition, or as part of the sale of substantially all of the assets of our business relating to these Terms of Use.

This Terms of Use document was last modified on June 1, 2021.
Effective Date: August 1st, 2021