

Kenton County School District | It's about ALL kids.

## Issue Paper

**DATE:**

09/22/22

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve purchase of 25 premium annual subscriptions for Everyday Speech subscription for social skills instruction for use by all schools within the Kenton County School District.

**APPLICABLE BOARD POLICY:**

01.1 Legal Status of the Board

**HISTORY/BACKGROUND:**

The Kenton County School District has consistently purchased 25 premium subscriptions for students and staff from Everyday Speech. Once the subscription is renewed, all schools and students will have full access to the program. While this subscription is for all schools, it is especially beneficial for students who are identified as needing interventions or special education in the area of social skills. This program provides both instructional resources as well as data collection tools to determine student progress.

**FISCAL/BUDGETARY IMPACT:**

\$8,162.91 with annual renewal paid out of Special Education: IDEA

**RECOMMENDATION:**

Approval to purchase 25 premium annual subscriptions for Everyday Speech subscription for use by all students and staff within the Kenton County School District.

**CONTACT PERSON:**

Danielle Rice, Director of Special Education

A blue ink signature, likely of the Principal/Administrator, written over a horizontal line.

Principal/Administrator

A black ink signature, likely of the District Administrator, written over a horizontal line.

District Administrator

A black ink signature, likely of the Superintendent, written over a horizontal line.

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.

## The Kenton County School District - 25 Premium Subscriptions

The Kenton County School District  
500 Mero St  
Frankfort, Kentucky 40601  
United States

Jennifer Bryngelson  
Assistant Director of Special  
Education  
jennifer.bryngelson@kenton.kysch  
ools.us

Reference: 20220720-130848449  
Quote created: July 20, 2022  
Quote expires: October 18, 2022  
Quote created by: Justin Walter  
Account Executive  
justin@everydayspeech.com

### Comments from Justin Walter

**Premium Plan:** Premium student management

- Create unlimited Saved Lists
- Manage progress for unlimited students
- Send unlimited homework assignments

### Products & Services

Item & Description	SKU	Quantity	Unit Price	Total
Premium (Annual) - Quote (Enterprise)	P:5539395:14119 30	25	\$399.99 / year	\$9,999.75 / year
Customized onboarding training Customized onboarding with Everyday Speech Customer Success team.		1	\$0.00	\$0.00 for 1 year
Includes: 1 Pre-training call with dedicated Customer Support specialist 1 Group training call with new/existing users				

Customized training plan  
(frequency/subject matter to be  
finalized after pre-training call)

Subtotals

Annual subtotal \$9,999.75

Other Fees

Bulk Discounts -\$1,288.00

Premium Renewal Discount -\$548.84

Total \$8,162.91

Purchase Terms

This quote is valid only until the date indicated.

For fastest service, please upload your purchase order via <https://everydayspeech.com/po/>.

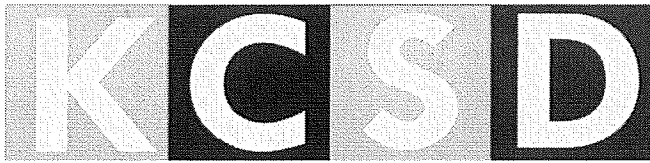
If you are required to mail or fax your quote, please also send an electronic version via <https://everydayspeech.com/po/>

Questions? Contact me



Justin Walter  
Account Executive  
[justin@everydayspeech.com](mailto:justin@everydayspeech.com)

Everyday Speech  
DEPT CH 17439  
Palatine, IL 60055-7439  
US



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](http://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.

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.

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.

**Everyday Speech LLC**

Vendor Name

**6 Liberty Square #2565 Boston, MA 02109, USA**

Vendor Address

**617-564-3143**

Vendor Telephone

**purchasing@everydayspeech.com**

Vendor Email Address

*Caleb Brunell*

Signature by Vendor's Authorized Representative

**Caleb Brunell**

Print Name

**Jul 15, 2022**

Date






# KCBOE Vendor Assurance

Final Audit Report

2022-07-15

Created:	2022-07-15
By:	Zoe Mok (zoe@everydayspeech.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAPXNmTbvDpFT-VzdOmp13INpjYp0coRy6

## "KCBOE Vendor Assurance" History

-  Document created by Zoe Mok (zoe@everydayspeech.com)  
2022-07-15 - 5:27:17 PM GMT
-  Document emailed to Cal Brunell (cal@everydayspeech.com) for signature  
2022-07-15 - 5:29:02 PM GMT
-  Email viewed by Cal Brunell (cal@everydayspeech.com)  
2022-07-15 - 6:44:00 PM GMT
-  Document e-signed by Cal Brunell (cal@everydayspeech.com)  
Signature Date: 2022-07-15 - 6:44:11 PM GMT - Time Source: server
-  Agreement completed.  
2022-07-15 - 6:44:11 PM GMT



Adobe Acrobat Sign

**EVERYDAY SPEECH, LLC**

**TERMS OF SERVICE**

*Last Updated: August 1<sup>st</sup>, 2020*

**Welcome to Everyday Speech!**

These terms and conditions are a legal agreement (these "Terms") between you (together with the business entity, if any, that you represent, "you" or "your" or "User") and Everyday Speech, LLC ("Everyday Speech" or "we", "us" or "our"), establishing terms and conditions under which you shall access and use the services and features ("Services") available through our mobile application (the "App") and through on Everyday Speech's web-based social learning platform (together with the App, the "Platform"). The Platform is located at <https://www.everydayspeech.com/> and any related sub-domains (the "Website(s)") and provided through such Website and through our App, as made available by Everyday Speech from time to time. The date you first agree to these Terms is referred to herein as the "Effective Date." Your use of the Platform is also subject to our Privacy Policy available on our Website at <https://everydayspeech.com/privacy> and updated from time to time ("Privacy Policy").

The Platform enables you to provide social skills training and related content to students ("Students") by providing such Students with access to the content available through your use of the Platform.

You represent, warrant and covenant that, prior to displaying content from the Platform to any individual, you will obtain the agreement of such individuals, or their parent or legal guardian where applicable, under applicable law and regulation, permitting such individuals, or the Students they represent, to access and use content available through your use of the App or Platform under terms and conditions consistent with these Terms.

**BEFORE YOU CLICK ON THE "I ACCEPT" BUTTON OR OTHERWISE ACCESS THE PLATFORM OR APP OR USE ANY OF THE SERVICES, CAREFULLY READ THESE TERMS. BY CLICKING ON THE "I ACCEPT" BUTTON OR ACCESSING THE PLATFORM, WEBSITE OR APPS OR USING THE SERVICES, YOU AND THE BUSINESS ENTITY**



THAT YOU REPRESENT ARE AGREEING TO BE BOUND BY AND ARE BECOMING A PARTY TO THESE TERMS. YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS ON BEHALF OF THE BUSINESS ENTITY YOU REPRESENT. YOU HEREBY COVENANT TO ENSURE THAT ALL USERS THAT GAIN ACCESS TO THE PLATFORM AND/OR THE SERVICES FROM YOU ARE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, THEN DO NOT CLICK "I ACCEPT" AND YOU WILL NOT BE PERMITTED TO ACCESS AND/OR USE THE SERVICES.

**1. Registration**

Some portions of our Services may be available to users without registering, other features will only be available to those users who register with us, while still other features will only be available to users based on the features included in their tier of subscription plan or trial of our Services. In consideration of your use of the Service, you agree to (a) provide accurate, current and complete information about you as may be prompted by any registration forms on the Service ("Registration Data"); (b) maintain the security of your password and identification; (c) maintain and promptly update the Registration Data, and any other information you provide to us, to keep it accurate, current and complete; and (d) be fully responsible for all use of your account and for any actions that take place using your account.

**2. Restricted License**

On the condition that you comply with all your obligations under these Terms, Everyday Speech hereby grants you a non-exclusive, non-transferable, restricted license (without the right to sublicense) to access the Platform and use the Services in accordance with these Terms and the instructions and guidelines posted on the Platform. Everyday Speech reserves the rights to terminate your license to use the Platform and Services at any time and for any reason or to change the features included in different tiers of paid or free subscription plans. You may not use the Services to substantially replicate products or services offered by Everyday Speech including the republication of Everyday Speech content or the creation of a competing platform. If Everyday Speech believes, in its sole discretion, that you have violated or attempted to violate these Terms, your ability to use and access the Services may be temporarily or permanently revoked, with or without notice.

Everyday Speech reserves the right to investigate possible violations of these Terms, block users from accessing the Services, and refer matters to law enforcement authorities for further investigation. We may disclose information to third parties, in accordance with our Privacy Policy, located at <https://everydayspeech.com/privacy>.

You agree that if Everyday Speech determines or reasonably suspects that you are reselling or brokering the Services' information, programs, computer applications, or data, or is otherwise violating any provision of these Terms, Everyday Speech may take immediate action, including terminating the delivery of, and the license to use, the Services. Everyday Speech reserves the right to use whatever means it deems appropriate to monitor your compliance with these Terms. Everyday Speech reserves the right to exercise whatever lawful means it deems necessary to prevent unauthorized access to or use of the Services, including, but not limited to, technological barriers, IP mapping, and contacting your Internet Service Provider (ISP) regarding such unauthorized use.

You represent and warrant that (i) 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 (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

### **3. Your Content**

In order to use some features of the Services, you may choose to provide us with information, or access to information, to create and automatically update your Everyday Speech account (collectively, "your content"). You own your content and may request deletion of your content at any time, unless you have shared your content with others and they have not deleted it, or it was copied or stored by other users while displayed by you to others through the Services, as further described in our Privacy Policy. You represent and warrant that you have the right to provide us with your content and to permit us to use and disclose your content within the parameters authorized by these Terms or our Privacy Policy.

Everyday Speech permits teachers to provide information identifying content made available to individual students, as a personal memory aid. You agree that you will not provide any information that would

constitute an “education record” under the Family Education Rights and Privacy Act (“FERPA”) or 34 CFR §99.3, or otherwise provide personal information regarding any minors.

You, and not Everyday Speech, are responsible for maintaining and protecting a separate permanent record of all of your content, if you wish to retain your content. Everyday Speech will not be liable for any loss or corruption of your content, or for backing up or restoring any of your content.

Notwithstanding anything else in these Terms or otherwise, Everyday Speech may monitor your use of the Services and Platform and use data and information related to your use of the Services in an aggregate or de-identified manner, including to compile statistical and performance information related to the provision and operation of the Platform and Services and the efficacy of the Platform, Services and particular Content. You agree that Everyday Speech may make such data and information publicly available and use such information to the extent and in the manner required by applicable law or regulation and/or for purposes of data gathering, analysis, service enhancement and marketing, provided that such data and information does not identify you or any other individual or entity.

#### **4. User Conduct**

You understand that the Services are available for your personal and business use only and for your use in connection with your Students. You shall not share your login credentials with any third party or otherwise enable a third party to use your account. Information and other text, images, data, links, software, or other material accessible through the Websites or Services, whether created by us or provided by another person for display on the Websites or through the Services (“Content”) in the Services may be protected by intellectual property rights of others. Please do not copy, upload, download, or share files unless you have the right to do so. You, not Everyday Speech, will be fully responsible and liable for what you copy, share, post, upload, download or otherwise use while using the Services. You represent, warrant and agree that your content or information shared through your account or otherwise shared by you on or through the Services will not violate or infringe upon the rights of any third party, including copyright, trademark, privacy, publicity or other personal or proprietary rights; be in violation of any law or used in furtherance of any such violation; or contain libelous, defamatory or otherwise unlawful material.

**In addition, you agree not to use the Services:**

- in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Services;
- to share or otherwise make available any content that we deem to be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable;
- to impersonate any person or entity, or falsely state or otherwise misrepresent yourself, your age or your affiliation with any person or entity;
- to share or otherwise make available any unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- to share or otherwise make publicly available on the Services any private information of any third party, including addresses, phone numbers, email addresses, Social Security numbers and credit card numbers;
- to share or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- to share or otherwise make available content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any local, state, national or international law;
- to use or attempt to use another's account, service or system without authorization from us, or create a false identity on the Services;
- to manipulate the Services to obtain fee-bearing features for which you have not subscribed or to start more than one free trial for the Services within a one-month period without authorization from us;
- to forge headers or otherwise manipulate identifiers in order to disguise the origin of any information transmitted by you;
- to access, retrieve or index the Services for purposes of constructing or populating a searchable database of contact or business information;
- to record, process, or mine information about other users;
- to use any robot, spider, search/retrieval application, or other automated device, process or means to access, retrieve, scrape, or index the Services or any Content; or
- to reformat or frame any portion of the Services.

**5. Content Posted on Other Websites**

**We have not reviewed, and cannot review, all of the material, including computer software, made available through the websites and web pages to which Everyday Speech.com links, or that link to our**

Website. Everyday Speech does not have any control over those non-Everyday Speech websites and web pages and is not responsible for their contents or their use. By linking to a non-Everyday Speech website or webpage, Everyday Speech does not represent or imply that it endorses such website or webpage. You are responsible for taking precautions as necessary to protect yourself and your computer systems from viruses, worms, Trojan horses, and other harmful or destructive content. Everyday Speech disclaims any responsibility for any harm resulting from your use of non-Everyday Speech websites and web pages.

#### **6. Intellectual Property**

These Terms do not transfer from Everyday Speech to you any Everyday Speech or third-party intellectual property, and all right, title and interest in and to such property will remain (as between the parties) solely with Everyday Speech. Everyday Speech, the Everyday Speech logo, and all other trademarks, service marks, graphics and logos used in connection with Everyday Speech, LLC or the Platform, are trademarks or registered trademarks of Everyday Speech or Everyday Speech's licensors. Other trademarks, service marks, graphics and logos used in connection with the Platform may be the trademarks of other third parties. Your use of the Platform grants you no right or license to reproduce or otherwise use any Everyday Speech or third-party trademarks.

#### **7. Unsolicited Ideas and Feedback**

While we welcome your feedback, ideas, and suggestions, it is important to be aware of the following restrictions. If you send us feedback, ideas, or suggestions (collectively, "unsolicited ideas"), you agree that: (1) your unsolicited ideas become the property of Everyday Speech and you are not owed any compensation in exchange; (2) none of the unsolicited ideas contain confidential or proprietary information of any third party; (3) Everyday Speech may use or redistribute unsolicited ideas for any purpose and in any way; (4) there is no obligation for Everyday Speech to review or use your unsolicited ideas; and (5) Everyday Speech has no obligation to keep any unsolicited ideas confidential.

#### **8. Advertisements**

Everyday Speech reserves the right to display advertisements on Everyday Speech.com or within Everyday Speech's mobile applications.

#### 9. Payments

If you purchase any Services that we offer for a fee, either on a one-time or subscription basis ("Premium Services"), you agree to Everyday Speech or its third-party payment processing service provider storing your payment card information. You also agree to pay the applicable fees for the Premium Services (including, without limitation, periodic fees for premium accounts) as they become due plus all related taxes. You may cancel your Premium Services as provided on the Platform from time to time. If you register for our Services as a member of an organization, your subscription may be paid by such organization; provided that, if so, then your subscription shall be effective for only the period for which such subscription is paid by such third party.

LR Fees will not be charged for late payments, however, your subscription shall be effective for only the period for which such subscription has been paid.

#### 10. Changes

Everyday Speech reserves the right, at its sole discretion, to modify or replace any part of these Terms. It is your responsibility to check these Terms periodically for changes. Your continued use of or access to the Platform following the posting of any changes to these Terms constitutes acceptance of those changes, except that, if such changes occur during the period of your paid subscription to our Services, then such changes shall take effect upon the sooner of (i) the renewal of your subscription and (ii) the date that you inform Everyday Speech of your acceptance of such changes.

#### 11. Termination

LR Everyday Speech may terminate your access to all or any part of the Platform at any time, with or without cause, with or without notice, effective immediately. If you wish to terminate your EverydaySpeech.com account (if you have one), you may terminate your subscription via the Platform or provide notice of termination to us at [info@everydayspeech.com](mailto:info@everydayspeech.com). Everyday Speech will have no obligation to provide a refund of any amounts previously paid to Everyday Speech. Everyday Speech can terminate the Platform and/or any related Services immediately as part of a general shut down of our Services. If your subscription

is paid by a third-party organization, your subscription may be terminated by such organizer. All provisions of these Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, rights in data you share with other users, warranty disclaimers, indemnity, limitations of liability and governing law and jurisdiction.

**12. Disclaimer of Warranties**

a) THE SERVICES, YOUR EVERYDAY SPEECH ACCOUNT, AND ALL INFORMATION AND CONTENT ARE MADE AVAILABLE TO YOU ON AN "AS IS," "AS AVAILABLE" BASIS. EVERYDAY SPEECH, ITS PARENTS, SUBSIDIARIES, AFFILIATES, AND THIRD PARTY DATA PROVIDERS AND MOBILE APPLICATION DISTRIBUTORS (COLLECTIVELY THE "EVERYDAY SPEECH PARTIES") MAKE NO WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED AS TO (1) THE OPERATION AND FUNCTIONALITY OF THE EVERYDAY SPEECH SERVICES, (2) THE ACCURACY, INTEGRITY, COMPLETENESS, QUALITY, LEGALITY, USEFULNESS, SAFETY, AND IP RIGHTS OF ANY OF THE INFORMATION AND CONTENT, INCLUDING BUT NOT LIMITED TO THE ACCURACY OF CONTACT AND BUSINESS INFORMATION CONTAINED ON THE SERVICES, (3) THE FUNCTIONS CONTAINED ON THIS SITE WILL BE UNINTERRUPTED OR ERROR-FREE; (4) THAT DEFECTS WILL BE CORRECTED, OR (5) THE PRODUCTS AND SERVICES ASSOCIATED WITH THE SERVICES. THE EVERYDAY SPEECH PARTIES FURTHER DISCLAIM ALL WARRANTIES, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, THAT YOU OBTAIN FROM EVERYDAY SPEECH OR THE EVERYDAY SPEECH SERVICES SHALL CREATE ANY WARRANTY, REPRESENTATION, OR CONDITION NOT EXPRESSLY STATED HEREIN.

b) THE EVERYDAY SPEECH PARTIES FURTHER DISCLAIM ALL LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF YOUR USE OF THE EVERYDAY SPEECH SERVICES AND INFORMATION AND CONTENT AVAILABLE THROUGH THE EVERYDAY SPEECH SERVICES. YOUR USE OF THE EVERYDAY SPEECH SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY RESULTING LOSS OR DAMAGE, INCLUDING BUT NOT LIMITED TO LOST REVENUE OR PROFITS, ANY LOSS OF DATA, OR DAMAGE

TO YOUR COMPUTER FROM VIRUSES THAT MAY BE DOWNLOADED TO YOUR COMPUTER IN THE COURSE OF USING THE EVERYDAY SPEECH SERVICES.

c) THE EVERYDAY SPEECH PARTIES ALSO DISCLAIM ALL LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF YOUR COMMUNICATIONS OR DEALINGS WITH ANY OF THE BUSINESSES, ADVERTISERS, OR USERS LISTED ON THE EVERYDAY SPEECH SERVICES. YOU ACKNOWLEDGE THAT EVERYDAY SPEECH HAS NO AFFILIATION WITH SUCH BUSINESSES, ADVERTISERS, AND USERS. YOUR COMMUNICATIONS OR DEALINGS WITH SUCH BUSINESSES, ADVERTISERS, AND USERS ARE SOLELY BETWEEN YOU AND THEM, THOUGH EVERYDAY SPEECH RESERVES THE RIGHT TO MONITOR DISPUTES BETWEEN YOU AND THEM.

d) SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, THE LIMITATION OR EXCLUSION OF IMPLIED WARRANTIES, OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IF YOU RESIDE IN SUCH A JURISDICTION, THE ABOVE LIMITATIONS SHALL APPLY TO YOU TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW.

e) EVERYDAY SPEECH DOES NOT HAVE ANY OBLIGATION TO VERIFY THE IDENTITY OF THE PERSONS REGISTERING TO USE ITS SERVICES, NOR DO WE HAVE ANY OBLIGATION TO MONITOR THE USE OF ITS SERVICES BY OTHER USERS; THEREFORE, EVERYDAY SPEECH DISCLAIMS ALL LIABILITY FOR IDENTITY THEFT OR ANY OTHER MISUSE OF YOUR IDENTITY OR INFORMATION THAT YOU PERMIT ANY THIRD PARTY TO ACCESS.

f) EVERYDAY SPEECH IS NOT RESPONSIBLE, AND MAKES NO REPRESENTATIONS OR WARRANTIES, FOR THE DELIVERY OF ANY MESSAGES (SUCH AS POSTING OR TRANSMISSION OF ANY OTHER USER GENERATED CONTENT) SENT THROUGH EVERYDAY SPEECH TO ANYONE.

g) THE EVERYDAY SPEECH SERVICES MAY CONTAIN HYPERLINKS TO THIRD PARTY WEBSITES (THE "THIRD PARTY SITES"), AND EVERYDAY SPEECH ASSUMES NO RESPONSIBILITY AND HAS NO CONTROL OVER THE INFORMATION AND OR CONTENT CONTAINED THEREIN. THE EVERYDAY SPEECH PARTIES ALSO DISCLAIM ALL LIABILITY ASSOCIATED WITH YOUR USE OF ANY THIRD PARTY SITES.

### 13. Limitation of Liability



a) TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE EVERYDAY SPEECH PARTIES BE LIABLE FOR (A) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE, OR CONSEQUENTIAL DAMAGES, (B) LOSS OF PROFITS, (C) BUSINESS INTERRUPTION, (D) LOSS OF OR DAMAGE TO REPUTATION, OR (E) LOSS OF INFORMATION OR DATA REGARDLESS OF LEGAL THEORY, WHETHER OR NOT EVERYDAY SPEECH HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

b) THE EVERYDAY SPEECH PARTIES' MAXIMUM AGGREGATE LIABILITY TO YOU FOR ANY CAUSES WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (WHETHER SUCH LIABILITY ARISES DUE TO NEGLIGENCE, BREACH OF CONTRACT, MISREPRESENTATION OR FOR ANY OTHER REASON), WILL AT ALL TIMES BE LIMITED TO THE GREATER OF (I) THE AMOUNT PAID, IF ANY, BY YOU TO EVERYDAY SPEECH IN CONNECTION WITH THE SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY OR (II) US \$10.00.

**14. General Representation and Warranty.**

You represent and warrant that (i) your use of the Platform will be in strict accordance with the Everyday Speech, LLC Privacy Policy, with these Terms and with all applicable laws and regulations (including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside) and (ii) your use of the Platform will not infringe or misappropriate the intellectual property rights of any third party.

**15. Indemnification**

You agree to indemnify and hold harmless Everyday Speech, its contractors, and its licensors, and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising out of your use of the Platform, including but not limited to your violation of these Terms.

16. Miscellaneous

These Terms constitute the entire agreement between Everyday Speech and you concerning the subject matter hereof. We may, at our sole discretion and without notice, revise these Terms at any time by updating this posting. These Terms shall be governed and interpreted pursuant to the laws of the <sup>LR</sup> Kentucky Commonwealth of Massachusetts, United States of America, without regard to the conflict of law provisions thereof. All claims, legal proceedings, or litigation arising in connection with the Services will be brought solely in federal or state courts located in the <sup>LR</sup> Kentucky Commonwealth of Massachusetts, and you consent to the jurisdiction of and venue in such courts and waive any objection as to inconvenient forum. If any part of these Terms is held to be unlawful, void, or unenforceable, that part will be deemed severable and shall not affect the validity and enforceability of the remaining provisions. A waiver by either party of any term or condition of these Terms or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. Neither these Terms nor the licenses granted herein are transferable by You without the prior written consent of Everyday Speech, which may be granted or withheld in Everyday Speech's sole discretion. Everyday Speech may assign or subcontract its rights and obligations under these Terms without condition. These Terms will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.

17. For Additional Information.

If You have any questions about these Terms, please contact us at: [info@everydayspeech.com](mailto:info@everydayspeech.com).

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Changes to the above terms of service approved by:



Lily Rego  
Director of Business Operations  
Everyday Speech

Date: September 21, 2022