

## 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 on 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 "Nearpod", "us" or "we" refers to Nearpod Inc., the owner of this website (which includes both Flocabulary.com and all of its subdomains) 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](http://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](http://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.

#### 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 Nearpod nor any of its officers, directors, employees, partners, agents, affiliates or licensors are 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 Florida (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 Broward County, Florida
- This means that you may not bring a claim anywhere else, and that claims against you may be brought in Broward County, Florida. You may not subsequently argue that Broward County, Florida 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](mailto:privacy@nearpod.com)