

Effective Date February 1, 2021

IMPORTANT, READ CAREFULLY: YOUR USE OF AND ACCESS TO THE WEBSITE AND PRODUCTS AND SERVICES AND ASSOCIATED SOFTWARE (COLLECTIVELY, THE "SERVICES") OF FLUENCY, INC. IS CONDITIONED UPON YOUR COMPLIANCE WITH AND ACCEPTANCE OF THESE TERMS, WHICH INCLUDE YOUR AGREEMENT TO ARBITRATE CLAIMS. PLEASE REVIEW THOROUGHLY BEFORE ACCEPTING THIS "AGREEMENT. ADDITIONALLY, THE ACCESS AND USE OF THE SERVICES ARE EXPRESSLY AND HEREBY FOR THE INTERNAL BUSINESS PURPOSES OF DELIVERING SPOKEN LANGUAGE AND AMERICAN SIGN LANGUAGE INTERPRETING SERVICES AS WELL AS ANY ALLIED OR ASSOCIATED BUSINESS USE OF THESE COMMUNICATION SERVICES AND PLATFORMS.

BY CLICKING/CHECKING THE "I AGREE" BUTTON/BOX, ACCESSING THE FLUENCY, INC SERVICES YOU AGREE TO BE BOUND BY THESE TERMS OF SERVICE AND ALL EXHIBITS, ORDER FORMS, AND INCORPORATED POLICIES (THE "AGREEMENT" OR "TOS"). THESE FLUENCY INC. SERVICES ARE NOT AVAILABLE TO PERSONS WHO ARE NOT LEGALLY ELIGIBLE TO BE BOUND BY THESE TERMS OF SERVICE.

THIS AGREEMENT APPLIES TO THE SERVICES AND SOFTWARE THAT FLUENCY CLIENTS HAVE LEGITIMATELY PURCHASED. THE SOFTWARE AND ASSOCIATED ENABLED PLATFORMS, PRODUCTS AND SERVICES ARE LICENSED, NOT SOLD. FLUENCY, INC CLIENTS MAY USE ONLY THE SOFTWARE THAT HAS BEEN PAID FOR, AND FLUENCY, INC. CLIENTS MUST USE IT STRICTLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT. FLUENCY, INC. CLIENTS ARE RESPONSIBLE FOR ENSURING THAT ALL EMPLOYEES, CONTRACTORS, CLIENTS AND OTHER USERS ("AUTHORIZED USERS") WITHIN ITS ORGANIZATION OR ENTITY ABIDE BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

FLUENCY, INC. RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO MODIFY, DELETE, EDIT, AND/OR ADD TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND AT ANY TIME SUCH MODIFIED TERMS AND CONDITIONS SHALL BECOME AVAILABLE, IT WILL HAVE IMMEDIATE EFFECT AND BE IN FORCE ONCE THEY ARE MADE AVAILABLE THROUGH PLATFORM UPDATES. UNLESS OTHERWISE EXPRESSLY SET FORTH IN ANY SUCH ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE SERVICES, THOSE ADDITIONAL

TERMS ARE HEREBY INCORPORATED INTO THIS AGREEMENT IN RELATION TO YOUR USE OF THE SERVICES.

1. SERVICES. Fluency, Inc. will provide the Services as described on the Order Form, and standard updates to the Services that are made generally available by Fluency, Inc. during the term. Fluency, Inc. may, in its sole discretion, discontinue the Services or modify the features of the Services from time to time without prior notice.

a. **Beta Services.** Fluency, Inc. may, from time to time, offer access to services that are classified as Beta versions. Access to and use of Beta versions may be subject to additional agreements. Fluency, Inc. makes no representations that a Beta version will ever be made generally available and reserves the right to discontinue or modify a Beta version at any time without notice. Beta versions are provided AS IS, may contain bugs, errors or other defects, and Your use of a Beta version is at Your sole risk. Your feedback, suggestions and opinions may be incorporated into later versions of the Services, and you hereby agree that your feedback will remain the exclusive intellectual property of Fluency.

2. USE OF SERVICES AND YOUR RESPONSIBILITIES. You may only use the Services pursuant to the terms of this Agreement. You are solely responsible for Your and Your End Users' use of the Services and shall abide by, and ensure compliance with, all laws in connection with Your and each End User's use of the Services, including but not limited to Laws related to recording, intellectual property, privacy and export control. Use of the Services is void where prohibited.

a. **Registration Information.** You may be required to provide information about Yourself in order to register for and/or use certain Services. You agree that any such information shall be accurate. You may also be asked to choose a username and password. You are entirely responsible for maintaining the security of Your user name and password and agree not to disclose such to any third party.

b. **Implementation Obligations.** Within the thirty (30) day period immediately following the Licensing Start Date, Licensee shall be responsible for (i) promptly supplying to Fluency, Inc. a digital logo file in the appropriate file format and pixel count requested by Fluency, Inc. and (ii) attending by remote login at least six (6) of the hosted on-line training courses made available to You by Fluency, Inc. Your failure to complete

any of the training modules or provide logos, or set up data within the 30 day implementation phase does not change, reduce, discount or postpone the Your obligations to pay their full monthly License Fees specified herein.

c. **Your Content.** You agree that You are solely responsible for the content ("Content") sent or transmitted by You or displayed or uploaded by You in using the Services and for compliance with all Laws pertaining to the Content, including, but not limited to, Laws requiring You to obtain the consent of a third party to use the Content and to provide appropriate notices of third-party rights. You represent and warrant that You have the right to upload the Content to the Services and that such use does not violate or infringe on any rights of any third party. Under no circumstances will Fluency, Inc. be liable in any way for any (a) Content that is transmitted or viewed while using the Services, (b) errors or omissions in the Content, or (c) any loss or damage of any kind incurred as a result of the use of, access to, or denial of access to Content. Although Fluency, Inc. is not responsible for any Content, Fluency, Inc. may delete any Content, at any time without notice to You, if Fluency, Inc. becomes aware that it violates any provision of this Agreement, or any law. You retain copyright and any other rights You already hold in Content which You submit, post or display on or through, the Services.

d. **Recordings.** You are responsible for compliance with all recording laws. The host can choose to record Fluency, Inc. meetings and Webinars. By using the Services, you are giving Fluency, Inc. consent to store recordings for any or all Fluency, Inc. meetings or webinars that you join, if such recordings are stored in our systems. You will receive a notification (visual or otherwise) when recording is enabled. If you do not consent to being recorded, you can choose to leave the meeting or webinar

e. **Prohibited Use.** You agree that You will not use, and will not permit any End User to use, the Services to: (i) modify, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to gain access to the source code of the Services; (ii) knowingly or negligently use the Services in a way that abuses, interferes with, or disrupts Fluency, Inc.'s networks, Your accounts, or the Services; (iii) engage in activity that is illegal, fraudulent, false, or misleading, (iv)

transmit through the Services any material that may infringe the intellectual property or other rights of third parties; (v) build or benchmark a competitive product or service, or copy any features, functions or graphics of the Services; or (vi) use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, indecent, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation; (vii) upload or transmit any software, content or code that does or is intended to harm, disable, destroy or adversely affect performance of the Services in any way or which does or is intended to harm or extract information or data from other hardware, software or networks of Fluency, Inc. or other users of Services; (viii) engage in any activity or use the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the Services, or any servers or networks connected to the Services or Fluency, Inc.'s security systems. (ix) use the Services in violation of any Fluency, Inc. policy or in a manner that violates applicable law, including but not limited to anti-spam, export control, privacy, and anti-terrorism laws and regulations and laws requiring the consent of subjects of audio and video recordings, and You agree that You are solely responsible for compliance with all such laws and regulations.

f. **Limitations on Use.** You may not reproduce, resell, rent, lease, sublicense or distribute the Services or any information services or products generated by the Services for any purpose outside your direct business use articulated in this Agreement unless You have been specifically permitted to do so under a separate written agreement with Fluency, Inc. You may not offer or enable any third parties to use the Services purchased by You, display on any website or otherwise publish the Services or any Content obtained from a Service (other than Content created by You) or otherwise generate income from the Services or use the Services for the development, production or marketing of a service or product substantially similar to the Services.

g. **System Requirements.** Use of the Services requires one or more compatible devices, Internet access (fees may apply), and certain third party software products and/or services that have been designed to enhance the features, add new features, and improve the work, security

and overall usability of the platform. Such third-party products and services may require additional fees to install and use, and may require obtaining updates or upgrades from time to time in order to keep these third party products and services up to date and useful. Because use of the Services involves hardware, software, and Internet access, and other third-party products and services, your ability to access and use the Services may be affected by the performance of these third party products and services. High speed Internet access is recommended. You acknowledge and agree that such system requirements, which may be changed from time to time, are entirely your responsibility.

3. RESPONSIBILITY FOR END USERS. You are responsible for the activities of all End Users who access or use the Services through your account and you agree to ensure that any such End User will comply with the terms of this Agreement and any Fluency, Inc. policies. Fluency, Inc. assumes no responsibility or liability for violations. If You become aware of any violation of this Agreement in connection with use of the Services by any person, please contact Fluency, Inc. at support@gofluently.com Fluency, Inc. may investigate any complaints and violations that come to its attention and may take any (or no) action that it believes is appropriate, including, but not limited to issuing warnings, removing the content or terminating accounts and/or User profiles. Under no circumstances will Fluency, Inc. be liable in any way for any data or other content viewed while using the Services, including, but not limited to, any errors or omissions in any such data or content, or any loss or damage of any kind incurred as a result of the use of, access to, or denial of access to any data or content.

4. FLUENCY, INC. OBLIGATIONS FOR CONTENT. Fluency, Inc. will maintain reasonable physical and technical safeguards to prevent unauthorized disclosure of or access to Content, in accordance with industry standards. Fluency, Inc. will notify You if it becomes aware of unauthorized access to Content. Fluency, Inc. will not access, view or process Content except (a) as provided for in this Agreement and in Fluency, Inc.'s (**Privacy Statement**;) (b) as authorized or instructed by You, (c) as required to perform its obligations under this Agreement; or (d) as required by Law. Fluency, Inc. has no other obligations with respect to Content.

5. THIRD-PARTY USE OF COOKIES AND OTHER TRACKING TECHNOLOGIES
Some content or applications, including advertisements, on the Website are served by third-parties, including advertisers, ad networks and servers, content providers, and application providers. These third parties may use cookies alone or in conjunction with web beacons or other tracking technologies to collect information about you when you

use our website. The information they collect may be associated with your personal information or they may collect information, including personal information, about your online activities over time and across different websites and other online services. They may use this information to provide you with interest-based (behavioral) advertising or other targeted content. Fluency, Inc. does not control these third parties' tracking technologies or how they may be used. If you have any questions about an advertisement or other targeted content, you should contact the responsible provider directly.

6. ELIGIBILITY. You affirm that You are at least 18 years of age and are otherwise fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement. Your access may be terminated without warning if we believe that You are under the age of 18 or are otherwise ineligible.

7. INTENDED USE; RESTRICTION ON USE BY CHILDREN. The Services are intended for business use. Fluency, Inc. is not intended for use by individuals under the age of 18, unless it is through a School Subscriber (as that term is defined in the Services Description) using Fluency, Inc. for Education (K-12).

8. CHARGES AND CANCELLATION. You agree that Fluency, Inc. may charge to Your credit card or other payment mechanism selected by You and approved by Fluency, Inc. ("Your Account") all amounts due and owing for the Services, including taxes and service fees, set up fees, subscription fees, support fees or any other fee or charge associated with Your Account. Fluency, Inc. shall have the right to increase any fees in its sole and absolute discretion upon thirty (30) days' prior written notice in advance of the commencement of a Renewal Period; provided, however, Fluency, Inc. will not increase fees more than once in any consecutive twelve (12) month period. Fluency, Inc. may change prices at any time, including changing from a free service to a paid service and charging for Services that were previously offered free of charge; provided, however, that Fluency, Inc. will provide you with prior notice and an opportunity to terminate Your Account. Fluency, Inc. will not charge you for a previously free Service unless you have been notified of the applicable fees and agreed to pay such fees. You agree that in the event Fluency, Inc. is unable to collect the fees owed to Fluency, Inc. for the Services through Your Account, Fluency, Inc. may take any other steps it deems necessary to collect such fees from You up to and including the termination of all Services. You will be responsible for all costs and expenses incurred by Fluency, Inc. in reinstating Services that have been suspended and/or terminated due to non-payment. You may cancel your subscription at any time. If you cancel you

will not receive a refund for any service already paid for. All past due amounts shall be subject to a late fee equal to the greater of (i) ten percent (10%) of the outstanding balance; (ii) One Hundred Seventy-Five Dollars (\$175.00); or (iii) the maximum amount allowable by applicable law. Your payment of a late fee on overdue amounts shall not cure or waive any default pursuant to this Licensing. Fluency, Inc. shall further have the right on thirty (30) days prior written notice to suspend the performance of all Services if any payment due and payable goes unpaid. Fluency, Inc. also reserves the right to submit any balance to collections which goes unpaid for at least ninety (90) days following the invoice date. In the event Fluency, Inc. has to pursue an unpaid balance through collections or other legal action, Licensee will be responsible for all costs and attorney's fees.

9. TERMINATION. If you have purchased a Service for a specific term, such termination will be effective on the last day of the then-current term. Your Order Form may provide that a Renewal Term will begin automatically unless either party provides notice of termination at least thirty (30) days prior to the commencement of the next Renewal Term. If You fail to comply with any provision of this Agreement, Fluency, Inc. may terminate this Agreement immediately and retain any fees previously paid by You. Sections 1 and 3 through 20, inclusive, shall survive any termination of this Agreement. Upon any termination of this Agreement, You must cease any further use of the Services. If at any time You are not happy with the Services, Your sole remedy is to cease using the Services and follow this termination process. Upon any expiration or termination of Services, Fluency, Inc. shall have the right to immediately and permanently suspend the performance of all Services. In addition, upon expiration or termination You shall have no further right to install, use, display, or run the Fluency platform and affiliated Services.

10. ACCESS RESTRICTION. Fluency, Inc. reserves the right to deny to any Client or any End User, in its sole discretion, access to the Services or any portion thereof without notice. Client is responsible for safeguarding the confidentiality of password(s) and user name(s) created by Client or any of its Clients for use with the Services and for any use or misuse of their Fluency, Inc's account resulting from any third party using a password or user name created by Client or any of its Clients. Client shall be solely responsible for securing access to its and its Clients' data. Fluency, Inc. shall in no event be liable for any unauthorized access to any data stored using the Software.

11. PROPRIETARY RIGHTS. Fluency, Inc. and/or its suppliers, as applicable, retain ownership of all proprietary rights in the Services and in all trade names, trademarks, service marks, logos, unique design elements and user interfaces and domain names

("Fluency, Inc. Marks") associated or displayed with the Services. You may not frame or utilize framing techniques to enclose any Fluency, Inc. Marks, or other proprietary information (including images, text, page layout, or form) of Fluency, Inc. without express written consent. You may not use any meta tags or any other "hidden text" utilizing Fluency, Inc. Marks without Fluency, Inc.'s express written consent.

12. COPYRIGHT. You may not post, modify, distribute, or reproduce in any way copyrighted material, trademarks, rights of publicity or other proprietary rights without obtaining the prior written consent of the owner of such proprietary rights. Fluency, Inc. may deny access to the Services to any User who is alleged to infringe another party's copyright. Without limiting the foregoing, if You believe that Your copyright has been infringed, please notify Fluency, Inc. at support@gofluently.com.

13. EXPORT RESTRICTIONS. You acknowledge that the Services, or a portion thereof, are subject to the Export Administration Regulations, 15 C.F.R. Parts 730-774, of the United States and may be subject to other applicable country export control and trade sanctions laws ("Export Control and Sanctions Laws"). Fluency, Inc. will provide the U.S. export classification(s) applicable to its Services upon request. You and Your End Users may not access, use, export, re-export, divert, transfer or disclose any portion of the Services or any related technical information or materials, directly or indirectly, in violation of Export Control and Sanctions Laws. You represent and warrant that: (i) You and Your End Users (a) are not citizens of, or located within, a country or territory that is subject to U.S. trade sanctions or other significant trade restrictions (including without limitation Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) and that You and Your End Users will not access or use the Services, or export, re-export, divert, or transfer the Services, in or to such countries or territories; (b) are not persons, or owned 50% or more, individually or in the aggregate by persons, identified on the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List or Foreign Sanctions Evaders Lists; and (c) are not persons on the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List, or U.S. Department of State proliferation-related lists; (ii) You and Your End Users located in China, Russia, or Venezuela are not Military End Users and will not put Fluency, Inc.'s Services to a Military End Use, as defined in 15 C.F.R. 744.21; (iii) no Content created or submitted by You or Your End Users is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control and Sanctions Laws; and (iv) You and Your End Users will not take any action that would constitute a violation of, or be penalized under, U.S. antiboycott laws administered by the U.S. Department of Commerce or the U.S. Department of the Treasury. You are

solely responsible for complying with the Export Control and Sanctions Laws and monitoring them for any modifications.

14. NO HIGH RISK USE. The Services are not designed or licensed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation/communication systems, air traffic control, and life support or weapons systems. The Services shall not be used for or in any HIGH-RISK environment.

15. ACCEPTABLE USE POLICY. You may not use, input, upload or transmit any Illegal, harmful, or offensive use or content. You may not use, or encourage, promote, facilitate or instruct others to use, the Services or the Software Platform for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. Prohibited activities or content include:

- **Illegal Activities.** Any illegal activities, including advertising, transmitting, or otherwise making available gambling sites or services or disseminating, promoting or facilitating pornography,

- **Harmful or Fraudulent Activities.** Activities that may be harmful to others, our operations or reputation, including offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), or engaging in other deceptive practices.

- **Infringing Content.** Content that infringes or misappropriates the intellectual property or proprietary rights of others.

- **Offensive Content.** Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts, radical political ideas, incitement of violence, or violent threats and/or intentions or any graphic images, video and/or audio of offensive content.

- **Harmful Content.** Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots. Licensee and Authorized Users shall comply with this Policy at all times. Failure to comply with the Policy shall constitute a material breach of the Terms of Service

16. INJUNCTIVE RELIEF. You acknowledge that any use of the Services contrary to this Agreement, or any transfer, sublicensing, copying or disclosure of technical information or materials related to the Services, may cause irreparable injury to Fluency, Inc., its Affiliates, suppliers and any other party authorized by Fluency, Inc. to resell, distribute, or promote the Services ("Resellers"), and under such circumstances Fluency, Inc., its Affiliates, suppliers and Resellers will be entitled to equitable relief, without posting bond or other security, including, but not limited to, preliminary and permanent injunctive relief.

17. NO WARRANTIES. YOU UNDERSTAND AND AGREE THAT THE SERVICES ARE PROVIDED "AS IS" AND FLUENCY, INC., ITS AFFILIATES, SUPPLIERS AND RESELLERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. FLUENCY, INC. EXPRESSLY DISCLAIMS ANY WARRANTY THAT USE OF THE SOFTWARE PLATFORM OR ACCESS TO THE SERVICES WILL BE CONTINUOUS, UNINTERRUPTED, BUG-FREE, ERROR-FREE, VIRUS-FREE, FREE OF DEFECTS, FREE OF TECHNICAL PROBLEMS, THAT THE SOFTWARE PLATFORM OR SERVICES WILL MEET ALL OF YOUR NEEDS, OR THAT DATA UPLOADED OR GENERATED BY THE SOFTWARE PLATFORM WILL NEVER BE LOST. FLUENCY, INC., ITS AFFILIATES, SUPPLIERS AND RESELLERS MAKE NO WARRANTY OR REPRESENTATION REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES, REGARDING THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICES OR THAT THE SERVICES WILL MEET ANY USER'S REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE. USE OF THE SERVICES IS AT YOUR SOLE RISK. ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOU RESULTING FROM THE USE OF THE SERVICES. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SERVICES REMAINS WITH YOU. FLUENCY, INC. DOES NOT ASSUME ANY RESPONSIBILITY FOR RETENTION OF ANY USER INFORMATION OR COMMUNICATIONS BETWEEN USERS. FLUENCY, INC. CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE SERVICES. USE IS AT YOUR OWN RISK.

18. INDEMNIFICATION. You agree to indemnify, defend and hold harmless Fluency, Inc., its affiliates, officers, directors, employees, consultants, agents, suppliers and Resellers from any and all third-party claims, liability, damages and/or costs (including,

but not limited to, attorneys' fees) arising from Your use of the Services. This includes without limitation claims relating to loss or confidentiality of data or programs the following: (b) any violation by Authorized Users and Organizations of any warranty, representation or covenant under this Agreement, (c) Authorized Users and Organizations' violation of any third party rights, including, without limitation, infringement of any copyright, trademark or patent right, violation of any other proprietary right and invasion of any privacy or publicity rights, and/or the use or misuse of the Client's account by any third party using Client's password(s) and/or user name(s). These obligations will survive any termination of this Agreement.

19. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FLUENCY, INC. OR ITS AFFILIATES, SUPPLIERS OR RESELLERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS OR DAMAGE) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES OR THE PROVISION OF OR FAILURE TO PROVIDE TECHNICAL OR OTHER SUPPORT SERVICES, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE) CONTRACT OR ANY OTHER LEGAL THEORY, EVEN IF FLUENCY, INC., ITS AFFILIATES, SUPPLIERS OR RESELLERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, FLUENCY, INC.'S, ITS AFFILIATES', SUPPLIERS' AND RESELLERS' MAXIMUM CUMULATIVE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SERVICES (IF ANY) IN THE SIX (6) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH CLAIMS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE FULLY CONSIDERED THE FOREGOING ALLOCATION OF RISK AND FIND IT REASONABLE, AND THAT THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

20. AGREEMENT TO ARBITRATE; WAIVER OF CLASS ACTION. If You are located in the United States, You agree to resolve disputes only on an individual basis, through arbitration pursuant to the provisions of Exhibit A. **The parties expressly waive any right to bring any action, lawsuit, or proceeding as a class or collective action, private attorney general action, or any other proceeding in which any party acts or proposes to act in a representative capacity.**

21. WAIVER AND SEVERABILITY. Failure by either Party to exercise any of its rights under, or to enforce any provision of, this Agreement will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of this Agreement will remain in full force and effect.

22. GENERAL PROVISIONS. This Agreement embodies the entire understanding and agreement between the Parties respecting the subject matter of this Agreement and supersedes any and all prior understandings and agreements between the Parties respecting such subject matter, except that if You or Your company have executed a separate written agreement or you have signed an order form referencing a separate agreement governing your use of the Services, then such agreement shall control to the extent that any provision of this Agreement conflicts with the terms of such agreement. Fluency, Inc. may elect to change or supplement the terms of this Agreement from time to time at its sole discretion. Fluency, Inc. will exercise commercially reasonable business efforts to provide notice to You of any material changes to this Agreement. Within ten (10) business days of posting changes to this Agreement (or ten (10) business days from the date of notice, if such is provided), they will be binding on You. If You do not agree with the changes, You should discontinue using the Services. If You continue using the Services after such ten-business-day period, You will be deemed to have accepted the changes to the terms of this Agreement. In order to participate in certain Services, You may be notified that You are required to download software and/or agree to additional terms and conditions. Unless expressly set forth in such additional terms and conditions, those additional terms are hereby incorporated into this Agreement. This Agreement has been prepared in the English Language and such version shall be controlling in all respects and any non-English version of this Agreement is solely for accommodation purposes. Each party hereby agrees to submit to the jurisdiction of such courts. Client acknowledges that a breach of this Agreement will cause irreparable and continuing damage to Fluency, Inc. for which money damages are insufficient, and Fluency, Inc. shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including money damages if appropriate).

BY ACCESSING AND USING THE FLUENCY, INC. SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE UNCONDITIONALLY THAT YOU SHALL BE BOUND BY ITS TERMS AND CONDITIONS. YOU FURTHER REPRESENT AND WARRANT THAT YOU

HAVE FULL AUTHORITY TO EXECUTE THIS BINDING AGREEMENT ON BEHALF OF YOUR BUSINESS OR ORGANIZATION.

23. Choice of Law and Forum. This Agreement shall be governed by and construed under the laws of the State of California, U.S.A., as applied to agreements entered into and to be performed in California by California residents. Except as provided in Exhibit A, the Parties consent to the exclusive jurisdiction and venue of the state courts located in and serving Sacramento County, California and the federal courts in the Northern District of California.

24. PRIVACY POLICIES. Use of the Services is also subject to Fluency, Inc's. Privacy Statement. The Privacy Statement, and all policies cited herein are incorporated into this Agreement by this reference. It is our policy to post any changes we make to our privacy policy on this page. You are responsible for ensuring we have an up-to-date active and deliverable email address for you, and for periodically visiting our Website and this privacy policy to check for any changes. To review our Privacy Policy [please click here](#).

25. DATA SECURITY We have implemented measures designed to secure your personal and business information and that of your Clients from accidental loss and from unauthorized access, use, alteration, and disclosure. All information you provide to us is stored on our private cloud servers behind enterprise class security equipment and services. Our servers are housed in a high security location in Sacramento, California: <https://www.ragingwire.com/> utilizing industry leading back up, security, and redundancy protocols necessary for modern software as a service provider entrusted with vital data.

The safety and security of your information also depends on you. Where we have given you (or where you have chosen) a password for access to certain parts of our Website, you are responsible for keeping this password confidential. We ask you not to share your password with anyone. We urge you to be careful about giving out information in public areas of the Website like message boards with particular caution towards divulging usernames and/or passwords on social media accounts that is widely accessed by anyone at any time.

Unfortunately, the transmission of information via the internet is not completely secure. Although we do our best to protect your personal information, we cannot guarantee the security of your personal information transmitted to our Website. Any transmission of personal information is at your own risk. We are not responsible for circumvention of any privacy settings or security measures contained on the Website.

26. DATA RETENTION. Fluency, Inc. will retain your information for as long as your account is active or as needed to provide you services. Subscriber shall have the right to request a copy of the data stored in the Software Services within the forty-five (45) day period immediately following any expiration or termination of this subscription. In any such case, a copy of the data will be returned via an encrypted flash drive delivered via FedEx, or alternatively, via a secure file transfer mechanism. All data will be expunged from the Software Platform within thirty (30) days of acknowledged receipt of the data by Subscriber, or alternatively, if no data is requested, data will be expunged permanently within sixty (60) days of termination, according to HIPAA rules section 45 CFR 164.50 relating to ePhi for Covered Entities and Business Associates.

27. FORCE MAJEURE. The failure of either Party to perform any obligation pursuant to this Licensing by reason of “acts of God,” acts of governments, terrorism, riots, wars, accidents, public health emergencies such as pandemics, bio terrorism, or natural or man made disasters that have a material affect on electric power grids and/or Internet connectivity, or other causes of any nature beyond its control shall not be deemed to be a breach of this Licensing, provided that the nonperforming or delayed Party provides to the other Party written notice of the existence and nature of such reason for the nonperformance and delay, and resumes performance immediately upon the elimination of the relevant force majeure. In the event the force majeure event continues for more than thirty (30) days, then the non-delayed Party may terminate the Licensing.

28. CONFIDENTIAL INFORMATION. During the Term and any Renewal Periods, each Party may disclose certain Confidential Information to the other Party. Each Party shall refrain from using or exploiting any and all Confidential Information of the other Party for any purposes or activities other than those specifically authorized during the Term, any Renewal Period, and for a period of two (2) years thereafter. Each Party represents and warrants that it will hold Confidential Information in confidence and protect Confidential Information to the same extent and by the same means it uses to protect the confidentiality of its own proprietary or confidential information that it does not wish to disclose. Neither Party shall disclose or facilitate disclosure of Confidential Information of the other Party to anyone except employees, independent contractors, and legal and tax advisors who are authorized according to these Terms of Service and who have a “need to know such information.” Each Party shall ensure that the employees, independent contractors, and legal and tax advisors to whom the Confidential Information is disclosed comply with their obligations under these Terms of Service with respect to the Confidential Information. All Confidential Information made available hereunder, including copies thereof, shall be returned to the disclosing Party or shall be certified as destroyed at the request of the disclosing Party. (a) “Confidential

Information” shall be defined as all the proprietary, non-public information of either Party disclosed pursuant to or in furtherance of this relationship including but not limited to all Technical Information as defined herein, all pricing information, and 9 all data uploaded by Licensee or generated by the Software Platform. Notwithstanding the foregoing, “Confidential Information” shall not include any information that the recipient can demonstrate through its records (i) was in its knowledge or possession prior to disclosure by the discloser, (ii) was in the public domain at the time of disclosure or subsequently entered the public domain through no fault of the recipient, or (iii) was disclosed to the recipient by a third party with the right to make such a disclosure. (b) “Technical Information” shall be defined as all proprietary or non-public information, know-how, trade secrets, data, workflows, materials, inventions, source code, or discoveries owned by Fluency, Inc. that are necessary or useful to the Software Platform or Application and are in the possession of Fluency, Inc. as of the Licensing Start Date.

29. Modifications and Additions to this Terms Of Service. No modifications or additions to the terms and conditions of these Terms of Service shall be binding unless in writing and signed by both Parties. Notwithstanding the foregoing, Fluency, Inc. reserves the right to modify any policy or policies within its reasonable discretion from time to time, and such modification shall be effective upon notice to Licensee via the Software Platform. (g)

30. Assignment. These Terms of Service shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Neither party may assign their rights under this Terms Of Service to a third party except upon the prior written consent of the other Party, which may be withheld by Fluency, Inc. in the exercise of its sole discretion. Fluency, Inc. shall have the right to assign the terms of the Licensing to (a) a parent or subsidiary of Your company; (b) a purchaser of all or substantially all of Your company’s assets; or (c) any successor in interest of Your company. Any purported assignment in violation of this Section shall be void. Any change in control of Licensee that results in a third party directly or indirectly owning or controlling 50% or more of Licensee shall constitute an assignment. No change in control of Your company, however effectuated, shall constitute an assignment under these Terms of Service. (h)

31. Notices. Any notice to be given by Fluency, Inc, may be given, at Fluency Inc.’s option, by means of a general notice on the Software Platform, electronic mail to Licensee’s electronic mail address on record as provided or by hard copy sent by nationally recognized overnight delivery service or first class mail or prepaid post to

Your business address on record as provided in writing to Fluency, Inc. You may give notice to Fluency, Inc. at any time by any of the following: letter sent by nationally recognized overnight delivery service or first class postage prepaid mail to Fluency, Inc at 6824 Fair Oaks Blvd, Suite 200, Carmichael, California, USA 95608 or via email at support@gofluently.com. Any notice delivered in accordance with this section shall be deemed to have been given on actual receipt, or the expiration of 5 days (Company Holidays and weekends excepted) after mailing or posting (if sent by first class mail or prepaid post) or 12 hours after sending (if sent by email to You). (i) Waiver. No waiver by either Party of any breach, no matter how long continuing or how often repeated, shall be deemed a waiver of any subsequent breach thereof, nor shall any delay or omission on the part of either Party to exercise any right, power, or privilege hereunder be deemed a waiver of such right, power, or privilege. (j)

32. DATA BREACH. If you suspect a data breach, please contact us immediately at support@gofluently.com or by contacting us by phone at (800) 522-7512

33. CONTACT INFORMATION: Info@gofluently.com, Fluency, Inc. is a California Corporation located at 6825 Fair Oaks Blvd, Suite 200, Carmichael, CA 95608 (800) 522-7512

Exhibit A

Binding Arbitration

This Exhibit A to the TOS describes the further provisions which apply to the Binding Arbitration and Class Action Waiver.

A. **Disputes.** A dispute is any controversy between You and Fluency, Inc. concerning the Services, any software related to the Services, the price of the Services, Your account, Fluency, Inc.'s advertising, marketing, or communications, Your purchase transaction or billing, or any term of this Agreement, under any legal theory including contract, warranty, tort, statute, or regulation, except disputes relating to the enforcement or validity of Your or Fluency, Inc.'s intellectual property rights. As part of the best-efforts process to resolve disputes, and prior to initiating arbitration proceedings, each party agrees to provide notice of the dispute to the other party, including a description of the dispute, what efforts have been made to resolve it, and what the disputing party is requesting as resolution, to support@gofluently.com.

B. **Small Claims Court Available.** You may initiate an action in your local Small Claims Court if You meet the court's requirements. However, if such a claim is transferred, removed or appealed to a different court, Fluency, Inc. reserves the right to require arbitration.

C. **Arbitration Procedure.** Disputes not resolved pursuant to Section A or B shall be resolved through arbitration. The American Arbitration Association ("AAA") will conduct any arbitration under its Commercial Arbitration Rules. For more information, see www.adr.org. Arbitration hearings will take place in the federal judicial district of Your primary business location. A single arbitrator will be appointed. The arbitrator must: (a) follow all applicable substantive Law; (b) follow applicable statutes of limitations; (c) honor valid claims of privilege; (d) issue a written decision including the reasons for the award. The arbitrator may award damages, declaratory or injunctive relief, and costs (including reasonable attorneys' fees). Any arbitration award may be enforced (such as through a judgment) in any court with jurisdiction. **Under AAA Rules, the arbitrator rules on his or her own jurisdiction, including the arbitrability of any claim; however, a court has exclusive authority to enforce the prohibition on arbitration on a class-wide basis or in a representative capacity.**

D. **Arbitration Fees.** For disputes involving more than \$75,000, the AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.

E. **Conflict with AAA Rules.** This Agreement governs if there is a conflict with the AAA's Commercial Arbitration Rules.

F. **Requirement to File Within One Year.** Notwithstanding any other statute of limitations, a claim or dispute under this Agreement must be filed in Small Claims Court or noticed for arbitration within one year of when it could first be filed, or such claim will be permanently barred.

G. **Severability.** If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, then those parts will not be arbitrated but will be resolved in court, with the balance resolved through arbitration. If any provision of this Exhibit A is found to be illegal or unenforceable, then that provision will be severed; however, the remaining

provisions shall still apply and shall be interpreted to as nearly as possible achieve the original intent of this Exhibit, inclusive of the severed provision.

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USER PRIVACY POLICY

Effective Date: 2/01/2021

Fluency, Inc. collects information about you when you use our website and through other interactions and communications you have with us (collectively, “Services”). The Services are provided by Fluency Inc., and this Privacy Statement applies to information collected and used by Fluency Inc.

Please review this Privacy Policy and the Terms and Conditions (“Terms”) carefully before accessing and using the Services.

When you submit information to or from the Services, you consent to the collection and processing of information as described in this policy. If you do not agree to this policy or the Terms, you are prohibited from using the Services.

1). SCOPE AND APPLICATION. This Privacy Statement (“Statement”) describes how Fluency Inc. (“we”, “us”, or “Fluency”), and its affiliated companies obtain, directly or indirectly through your viewing or interaction with Fluency applies to persons who use our Services to schedule and manage appointments (“Users”).

2). COLLECTION OF INFORMATION Information You Provide to Us We collect information you provide directly to us that can be used to identify you (“Personal Information”), such as when you create or modify your account, request on-demand services, contact customer support, or otherwise communicate with us. This information may include but is not limited to: name, age, email, phone number, postal address, notes, location data, which information may be stored, processed, and/or accessed by Fluency for business purposes, including for marketing, lead generation, Service development and improvement, analytics, industry and market research, and such other purposes consistent with Fluency’s legitimate business needs. If you are a requester, you

acknowledge that we may collect this Personal Information from you directly or through your Licensee Agency or Authorized Interpreter User. By submitting information to Fluency during the account creation process and/or by using the Services, you consent to such collection and use of personal data. You also acknowledge and agree that if you are a requester, we may collect general patient and/or client health information, such as medical record number, location, and general notes about the health, behavioral health or human service appointment, (“Client Information”).

3). INFORMATION WE COLLECT THROUGH YOUR USE OF OUR SERVICES. When you use our Services, we collect information about you in the following general categories:

- 1) Geo-location Information: When you use the Services, including the mobile application services provided to you via our Google and Apple APP accounts you acknowledge and agree that we will collect location-based data from the device you use. We may also derive your approximate location from your IP address.
- 2) Device Information: We may collect information about your device, including, for example, the hardware model, operating system and version, software and file names and versions, preferred language, unique device identifier, advertising identifiers, and serial number.
- 3) Log Information: When you interact with the Services, we collect server logs, which may include but is not limited to information like device IP address, access dates and times and actions, features or pages viewed, crashes and other system activity, type of browser, and the third-party site or service you were using before interacting with our Services.

4). HOW THIS INFORMATION IS USED. We use Personal and Client information as described in this Privacy Policy or in our Terms or disclosed to you as part of our Platform. For example, we may use your Personal Information to:

- Operate and improve our Services
- Develop and Beta test new services
- Respond to your comments and questions
- Provide and deliver products that you request

- Send you related information including confirmations, invoices, technical notes, updates, security alerts, support, critical newsworthy events affecting our industry and administrative messages
- Communicate with you about the Services
- Link or combine your information with other personal information we collect through our Services to help understand your needs and provide you better services
- For our own marketing, promotional and informational purposes

5). CHANGES TO OUR PRIVACY PRACTICES

We reserve the right to change this Privacy Policy and will post a copy of this notice on our Website.

Contact Us - For questions or comments regarding this Privacy Policy please contact us by phone at: 800-522-7512, or via email at: Support@gofluently.com or by U.S. mail or other courier service to:

Fluency, Inc
6825 Fair Oaks Blvd, Suite 200
Carmichael, CA 95608

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