

# eReadiness Terms of Service

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## 1.1 This Is a Contract Between You and B.E. Publishing

This is a contract between you and B.E. Publishing, Inc. (a Rhode Island Corporation, with its principal place of business at 346 Smith Street, North Kingstown, RI 02852). We will refer to ourselves in this contract as either “B.E. Publishing” “we” or “our.” You are an individual person, or you are an employee or other agent of an educational institution or other entity on whose behalf you are accepting this contract. The facts you give us must be complete and correct. This contract covers your use of this service, and includes any other related services, software, machines, support, content and other media, papers, updates, or upgrades. We refer to these all as the “Service.” This contract also covers your use of any additional B.E. Publishing services for which you choose to sign-up while this contract is in force. Please note that this contract limits our liability and we do not provide warranties for the Service. The contract also limits your remedies. These terms are in Sections 11 and 12 and we urge you to read the terms carefully.

## 2. Copyright Terms

B.E. Publishing’s content, including the online resources being provided to you, is protected by U.S. and International copyright laws. Reproduction and distribution of Service resources without written permission of B.E. Publishing is strictly prohibited. You agree to not share or distribute any Service resources beyond a secure, school-sanctioned domain and/or network, such as your school's secure LMS. Upon Service expiration or cancellation, you shall delete promptly all Service resources, including the eText, from whatever file location on which they were saved. Any infringement will be subject to penalties to the full extent of copyright law.

## 3. Acceptance of Terms

B.E. Publishing provides its service to you, subject to the following Terms of Service (“TOS”), which may be updated by us from time to time without notice to you. When using B.E. Publishing owned or operated services, you and B.E. Publishing shall be subject to any posted guidelines or rules applicable to such services that may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the TOS. B.E. Publishing may also offer other services that are governed by different Terms of Service.

## 4. How and When You May Use the Service

Teachers may download and distribute student resources, including the eText, to their students. However, you agree to not share or distribute any Service resources beyond a secure, school-sanctioned domain and/or network, such as your school's secure LMS. After the date your Service ends, you shall delete such resources from whatever file location on which they were saved. We provide the Service for your personal or educational use. You may not use the Service in a way that is against the law. You may not rent, lease, license or otherwise transfer any rights to use the Service. You may not provide commercial hosting services under this Agreement. You also may not use it in a way that harms our

affiliates, resellers, distributors, service providers, suppliers, or us. We may tell you about certain specific harmful uses in a code of conduct or other notice available through the Service. We have, however, no duty to do so. You will obey any codes of conduct or other notices we provide. You may start using the Service as soon as it is made available to you with initiation of your Service account. No withdrawal right or “cooling-off” period applies to the Service, except if the law requires a “cooling off” period even when your use of a service starts right away.

## 5. COPPA and Parental Consent

Students do not create personal accounts to access resources on eReadiness.com. You are responsible for directing students to the eReadiness.com site to access a title’s student resources. Information such as IP address, the identity of their Internet Service Provider, browser type, operating system, the site that brought them to our site, and the pages visited while on our site will still be collected, via a session cookie for performance management, from children who use the site without creating an account. Children may access the open student resources on eReadiness.com provided that their school has complied with its responsibilities under the Family Educational Rights and Privacy Act (“FERPA”) and the Children’s Online Privacy Protection Act (“COPPA”). (See the eReadiness Privacy Policy for details.) If a Teacher allows students under the age of 13 to use the Services, Teacher consents as required under COPPA to the collection and use of personal information in the Services (if any is collected) described in the Privacy Policy. Teacher must obtain verifiable parent or guardian consent for the collection and use of personal information before allowing any students under the age of 13 to use the Services. See Downloadable Take Home Letter Document or PDF Form to gather parent or guardian consent.

## 6. You Are Responsible for Your Service Account

You are responsible for all activity under your Service account. You are responsible for keeping confidential any password for your Service account. You must tell us right away about anyone using your account without your consent, or any security breach that relates to the Service.

## 7. Charges and Billing

eReadiness.com offers both a free trial version and a premium, licensed version. This section applies only to the premium licensed version. For the services available without a fee, this section does not apply. If you pay us for the Service (either currently, or in the future), then the terms of this Section 7 apply to you.

### 7.1 Payment

When you first sign up for any Paid Service, you create a “License” and provide your “Payment Method” which may include the submission of a verifiable Purchase Order from an educational institution or other entity on whose behalf you are placing an order. You confirm that you are authorized to use the Payment Method. You authorize us to charge you for the Service using your Payment Method. You authorize us to charge you for any additional B.E. Publishing services for which you choose to sign-up while this contract is in force. You will pay Service charges in advance. We will not charge you again for the Service without further permission from you.

## 7.2 Refund Policies

Once Service is activated, and you wish to cancel the Service, refunds are at the discretion of B.E. Publishing, unless otherwise provided by law. See Sections 12 and 13 regarding terms for the cancellation of the Service.

## 7.3 Errors

If we make an error on your bill, we will correct it promptly after you tell us, and we will investigate the charge. You must tell us within 60 days after an error first appears on your bill. You release us from all liability and claims of loss resulting from any error that you do not report to us within 60 days after the error first appears on your statement. If you do not tell us within this time, we will not be required to correct the error. We can correct billing errors at any time.

## 8. Materials You Post or Provide; Communications Monitoring

You may be able to submit materials for use in connection with the Service. We do not claim ownership of the materials you post or otherwise provide to us (including feedback) related to the Service (called a “submission”). However, by posting or otherwise providing your submission, you are granting to the public permission to use, copy, distribute, display, and modify your submission, each in connection with the Service, and to publish your name in connection with your submission. You also give the public permission to grant this permission to other persons. This section only applies for legal content, and to the extent that use, and publishing of such legal content does not breach the law. We will not pay you for your submission. We may refuse to transfer or may remove your submission at any time. For each submission, you must have all rights necessary for you to grant the permissions in this section. We consider your use of the Service, including the content of your communications, to be private. We do not routinely monitor your account or disclose information about your communications to anyone. However, to the maximum extent permitted by law, we may monitor your account and may disclose information about you, including contents of communications, if we deem it necessary to: (1) conform to legal requirements or respond to legal process; (2) ensure your compliance with this contract; or (3) protect the rights, property, or interests of B.E. Publishing, its employees, its customers, or the public.

## 9. Software

We may provide you with software to use with the Service. If you receive software from us, your use of that software is under the terms of the license that is presented to you for acceptance for that software. If there is no license presented to you, then we grant you the right to use the software only for the authorized use of the Service. Copyright and other intellectual property laws and treaties protect such software and content. We reserve all other rights to the software. B.E. Publishing or its suppliers own the title, copyright, and other intellectual property rights in such software. We may automatically check your version of the software. We may automatically download upgrades to such software to your computer to update, enhance and further develop the Service. Your license will end on the date your Service ends. Your license will also end if we modify the Service in a way that no longer supports such software. Promptly after the date your Service ends, you shall uninstall such software. We may disable such software after the date the Service ends. You will not disassemble, decompile, or reverse engineer any software or any machine included in the Service, except and only to the extent that the law expressly permits such activity. The software is subject to United States export laws and regulations. You

must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use.

## 10. How We May Change the Contract

If we change this contract, then we will tell you at least 30 days before the change is in force. We will tell you of the change by e-mail or online posting. We may also use other ways that we believe will reach you. If you do not agree to such changes, then you must cancel and stop using the Service before the changes are in force. If you do not stop using the Service, then your use of the Service will continue under the changed contract.

## 11. We Make No Warranty

We provide the Service “as-is,” “with all faults” and “as available.” B.E. Publishing gives no express warranties, guarantees, or conditions. You may have additional consumer rights under your local laws that this contract cannot change.

## 12. Liability Limitation; Your Exclusive Remedy

You can recover from B.E. Publishing only direct damages up to an amount equal to your Service fee for one month. You cannot recover any other damages, including consequential, lost profits, special, indirect, or incidental damages. This limitation applies to any matter related to the Service, any matter related to content (including code) on third party Internet sites, third party programs or third party conduct, any matter related to viruses or other disabling features that affect your access to or use of the Service, any matter related to incompatibility between the Service and other services, software and hardware, any matter related to delays or failures you may have in initiating, conducting or completing any transmissions or transactions in connection with the Service in an accurate or timely manner, and claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law. It also applies even if this remedy does not fully compensate you for any losses or fails of its essential purpose; or B.E. Publishing knew or should have known about the possibility of the damages. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. They also may not apply to you because your province or country may not allow the exclusion or limitation of incidental, consequential, or other damages.

## 13. Changes to the Service; Our Cancellation of Service

We may change the Service or delete features at any time and for any reason. We may cancel or suspend your Service at any time. Our cancellation or suspension may be without cause and/or without notice. Upon Service cancellation, your right to use the Service stops immediately. Once the Service is cancelled or suspended, any data you have stored on the Service may not be retrieved later. Our cancellation of the Service will not alter your obligation to pay all charges. If we cancel the Service in its entirety without cause, then we will refund to you, on a pro-rata basis the amount of your payment corresponding to the portion of your Service remaining right before such cancellation. Upon notification of Service cancellation, you shall promptly delete all Service resources, including the eText, from whatever file location on which they were saved.

## 14. Your Cancellation of Service

Your cancellation of the Service will not alter your obligation to pay all charges. If you cancel the Service in its entirety, then we may refund to you, on a pro-rata basis the amount of your payment corresponding to the portion of your Service remaining right before such cancellation. You may cancel the Service by simply leaving your account unused for 60 days. Once 60 days of inactivity has been reached, you will receive an email notification and 5 days later your account will be deactivated. Upon notification of Service cancellation, you shall delete promptly all Service resources, including the eText, from whatever file location on which they were saved.

## 15. Expiration of Service

Upon Service expiration, if you do not renew or update your Service license within 5 business days, you shall promptly delete all Service resources, including the eText, from whatever file location on which they were saved.

## 16. Choice of Law and Location for Resolving Disputes

If this contract is with B.E. Publishing, then claims for breach of this contract will be subject to the laws of the State of Rhode Island, without reference to conflict of laws principles. If this contract is with a B.E. Publishing affiliate, claims for breach of this contract will be subject to the laws of the place of incorporation for such affiliate, without reference to conflict of laws principles. All other claims, including claims regarding consumer protection laws, unfair competition laws, and in tort, will be subject to the laws of your state of residence in the United States, or, if you reside outside the United States, under the laws of the country to which we direct your Service. If this contract is with B.E. Publishing, you consent to the exclusive jurisdiction and venue of state or federal courts in Providence, Rhode Island, USA for all disputes relating to this contract or the Service. If this contract is with an affiliate, you consent to the exclusive jurisdiction and venue of the courts located in the place of incorporation for such affiliate for all disputes relating to this contract or the Service. You cannot revoke this consent.

## 17. Interpreting the Contract

All parts of this contract apply to the maximum extent permitted by law. A court may hold that we cannot enforce a part of this contract as written. If this happens, then we will replace that part with terms that most closely match the intent of the part that we cannot enforce. The rest of this contract will not change. This is the entire contract between us regarding your use of the Service. It supersedes any prior contract or statements regarding your use of the Service. If you have confidentiality obligations related to the Service, those obligations remain in force (for example, you may have been a beta tester). The section titles in the contract do not limit the other terms of this contract.

## 18. Assignment

We may assign this contract, in whole or in part, at any time with or without notice to you. You may not assign this contract, or any part of it, to any other party. Any attempt by you to do so is void. Instead, you may cancel your Service. The other party may then establish a Service account and enter into a contract with us.

## 19. Claim Must Be Filed Within One Year

Any claim related to this contract or the Service must be brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not filed, then that claim is permanently barred. This applies to you and your successors. It also applies to us and our successors and assigns.

## 20. Your Notices to Us

You may notify us by e-mail or postal mail. Your notices to us must be addressed as stated in the customer support or "support" area for the Service.

## 21. Our Notices to You; Consent Regarding Electronic Information

This contract is in electronic form. There may be other information regarding the Service that the law requires us to send you. We may send you this information in electronic form. You have the right to withdraw this consent, but if you do, we may cancel your Service. We may provide required information to you (1) via e-mail at the e-mail address you specified when you signed up for your Service, (2) by access to a B.E. Publishing web site that will be designated in an e-mail notice sent to you at the time the information is available, or (3) by access to a B.E. Publishing web site that will be generally designated in advance for such purpose. Notices provided to you via e-mail will be deemed given and received on the transmission date of such e-mail. As long as you access and use the Service, you will have the necessary software and hardware to receive such notices. If you do not consent to receive any notices electronically, you must stop using the Service.