

Ellevation Inc. Order Form - Q-26654

This Order Form is being entered into between Ellevation Inc., having an address at 38 Chauncy Street, Boston, Massachusetts 02111 ("Ellevation") and the Company Name identified as "Customer" below, pursuant to the parties' Master Services Agreement dated 8/1/2021 ("MSA"). In the event of any conflict between this Order Form and the MSA, the terms of this Order Form shall control. This Order Form is effective as of the Subscription Start Date set forth below.

Company: Ellevation Education
Representative: Tony DeJesus
Email: tony.dejesus@ellevationeducation.com
Phone: 617-307-5755
Address: 38 Chauncy St, 9th Floor, Boston, MA 02111
Start Date: 8/1/2021

Customer: Boone County Schools, KY
Contact Name: Geniene Piche
Email: geniene.delahunty@boone.kyschools.us
Phone: (859) 283-3225
Address: 8330 US Highway 42, Florence, KY 41042
End Date: 7/31/2022

Subscription Fees

Product	Quantity	Unit Price	Total Fees
Ellevation Math (per School) - Ockerman Elementary School	1	\$5,000.00	\$5,000.00

Subscription Total: \$5,000.00

Includes \$5,000 2021 Math Promotional Pricing | List Price \$8,000

Services Fees

Product	Quantity	Unit Price	Training Product	Total Fees
Ellevation Math Data/Implementation	1	\$500.00		\$500.00
Online Training - 1 Hr (Math)	1	\$1,000.00	Ellevation Math	\$1,000.00

Services Total: \$1,500.00

Total Investment - Q-26654

Grand Total: \$6,500.00

Invoicing Schedule: Up Front, In Full

Payment Term: Net 30

Contract Term: 12

ELLEVATION INC.

By (Signature):

Name (Print):

Title:

Date:

Boone County Schools, KY

By (Signature):

Name (Print):

Title:

Date:

Ellevation Website Terms of Use (these “Website Terms of Use”)¹

These Website Terms of Use apply only to the Ellevation website (<https://ellevationeducation.com/>) (the “Website”). These Website Terms of Use do not apply to the Ellevation platform for educators of English language learners or any of Ellevation (including our automated ELL program management reporting and compliance tools and services).¹ The terms of use for the Ellevation platform may be found at <https://ellevationeducation.com/platform-legal-notice>.

Ellevation, Inc. (“Ellevation”, “we”, or “us”) owns and operates the Website. By accessing the Website, you agree to be bound by these Website Terms of Use. In addition, you represent that you are 18 years of age or older, are lawfully able to enter into contracts, and agree to be bound by these Website Terms of Use.

If you do not have the necessary authority, or if you do not agree with these Website Terms of Use, then you may not use the Website. If you choose to continue to use or access the Website after having the opportunity to read these Website Terms of Use, you recognize that Ellevation has provided valuable consideration by offering this Website free of charge.

Ellevation reserves the right at any time to change these Website Terms of Use with prospective effect only upon posting to the Website. The “last updated” date indicates when these Website Terms of Use were last revised. Your continued use of the Website constitutes your agreement to any updated terms.

Intellectual Property

You acknowledge that the Website, including all text, graphics, user interfaces, and all trademarks, service marks, logos, data, information and other content of the Website, are owned by or licensed to Ellevation and are protected by copyright, trademark, and other intellectual property rights, and that you have no rights to transfer or reproduce the Website, or prepare any derivative works with respect to, or to disclose confidential information pertaining to, the Website. These Website Terms of Use do not convey to you any rights of ownership in or related to the Website or intellectual property rights owned by Ellevation.

Permissions

Ellevation grants you a personal, revocable, non-exclusive, non-transferable, limited permission to access the Website solely for your personal, non-commercial use, provided that you comply with these Website Terms of Use. You may not modify, copy, distribute, broadcast, transmit, reproduce, publish, license, transfer, sell, scrape, mirror, frame, or otherwise use any information or material obtained from or through the Website. You also warrant to Ellevation that you will not use the Website for any purpose that are unlawful, prohibited by any applicable regulation, or otherwise inconsistent with these Website Terms of Use. You further warrant that you will not attempt to extract or actually extract data contained in the Ellevation website to populate databases for internal or external use.

License

You grant us a non-exclusive, worldwide license to use the information, data, content, and other materials uploaded by you to the Website (the “Content”) solely for purposes of furnishing the Website to you and other users in accordance with our Privacy Policy (as defined below). You are solely responsible for obtaining all rights, permissions, and authorizations to provide the Content to us for use as contemplated under this paragraph. Nothing contained in these Website Terms of Use will be construed as granting Ellevation any ownership right, title, or interest in your Content.

Restrictions

You will not (and will not allow any third party to):

- a. Upload, post, email, or otherwise transmit any Content that is unlawful, harmful, threatening, intimidating, abusive, defamatory, obscene, libelous, invasive of another’s privacy, disrespectful, hateful, or racially, ethnically, or otherwise objectionable;
- b. Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Website;
- c. Upload, post, email, or otherwise transmit any Content that you do not have the right to transmit under any law or under contractual or fiduciary relationships;
- d. Upload, post, email, or otherwise transmit any Content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights of any party;
- e. Upload, post, email, or otherwise transmit any Content that contains software viruses or worms or any other computer code, files, or programs designed to disable, interrupt, destroy, redirect, monitor another user’s usage, limit, or otherwise inhibit the functionality of any computer software or hardware or telecommunications equipment;
- f. Interfere with or disrupt the Website, or servers or networks connected to the Website, or disobey any requirements, procedures, policies, or regulations of networks connected to the Website;
- g. Upload, post, email, or otherwise transmit any Content that intentionally or unintentionally violates any applicable local, state, national, or international law or regulation; or
- h. Upload, post, email, or otherwise transmit any Content that contains inaccurate information or that constitutes impersonation of another person or entity.

Privacy

We are committed to maintaining your privacy, and maintain a Privacy Policy, which may be viewed at <https://ellevationeducation.com/privacy-policy> (the “Privacy Policy”), and which may be amended from time to time in our sole discretion for prospective effect upon posting to the Website. All data you provide to us is subject to the terms maintained in the Privacy Policy, and acceptance of these Website Terms of Use constitutes consent to our collection and use of personal information as described in the Privacy Policy.

User Content

The Website may contain areas in which you may post Content. By using these areas, you acknowledge and agree that the Content you provide may be available to other users. Ellevation is not liable for any statements,

representations, or comments provided by its users in any public forum. Although Ellevation has no obligation to screen, edit, or monitor any of the content or comments posted to its Website, Ellevation reserves the right to remove, edit, or refuse to post Content in its sole discretion.

You may also provide us with suggestions, comments, or other feedback (“Feedback”) with respect to our products and services. Feedback is voluntary. We may use Feedback for any purpose without obligation of any kind in connection with our business, including the enhancement of our products and the Website.

Links

The Website may contain links to third party websites, including social networking websites. These links are provided for your convenience, and inclusion of links on the Website does not suggest an endorsement. We are not responsible for the contents or transmission of any linked site or for ensuring that the linked sites are error- and virus-free. Linked sites are subject to their own terms of use and privacy policies, and we encourage you to read them.

Indemnification

To the extent permissible by law, you will defend and indemnify Ellevation and hold it and its affiliates, officers, directors, managers, employees, agents, vendors, merchants, sponsors, providers, and licensors harmless from any and all claims, actions, demands, proceedings, losses, deficiencies, damages, liabilities, costs, and expenses (including but not limited to reasonable attorneys’ fees and all related costs and expenses) incurred by them as a result of any claim, judgment, or adjudication related to or arising directly or indirectly from any or all of the following: (i) your use of the Website; (ii) any information you submit, post, or transmit through the Website; (iii) breach of any of your obligations, representations, or warranties in these Website Terms of Use; or (iv) your violation of any rights of another person.

DISCLAIMER OF WARRANTIES

THE WEBSITE IS PROVIDED “AS IS” AND “AS-AVAILABLE,” WITH ALL FAULTS, AND WITHOUT WARRANTY OF ANY KIND. EXCEPT FOR ANY EXPRESS WARRANTY PROVIDED HEREIN, ELLEVATION AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY OF INFORMATION, OR TITLE/NON-INFRINGEMENT, AND ALL SUCH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED.

ELLEVATION ASSUMES NO RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS ON THE WEBSITE, ANY FAILURES, DELAYS, OR INTERRUPTIONS IN THE WEBSITE’S ACCESSIBILITY, ANY LOSSES OR DAMAGES ARISING FROM THE USE OF THE WEBSITE, ANY CONDUCT BY OTHER USERS ON THE WEBSITE, OR UNAUTHORIZED ACCESS TO OR USE OF THE WEBSITE OR SERVERS.

Limitation of Liability

YOU UNDERSTAND AND AGREE THAT ELLEVATION WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, USE OR DATA, OR OTHER INTANGIBLE LOSSES, EVEN IF ELLEVATION HAS BEEN ADVISED OF THE POSSIBILITIES OF THOSE DAMAGES, RESULTING FROM YOUR USE OF OR INABILITY TO USE THE WEBSITE OR THE SERVICES, CONTENT OR SOFTWARE AVAILABLE THEREON, THE COST OF OBTAINING SUBSTITUTE SERVICES RESULTING FROM ANY LOSS OF DATA, INFORMATION, PRODUCTS, OR SERVICES OBTAINED FROM PURCHASES OR TRANSACTIONS ENTERED INTO THROUGH THE WEBSITE, OR STATEMENTS OR CONDUCT OF ANY THIRD PARTY, OR ANY OTHER MATTER RELATED TO THE WEBSITE OR THE SERVICES, CONTENT OR SOFTWARE AVAILABLE THEREON. YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE WEBSITE IS PREDICATED UPON YOUR WAIVER OF ANY RIGHT TO SUE ELLEVATION OR ITS AFFILIATES DIRECTLY OR TO PARTICIPATE IN A CLASS ACTION SUIT FOR ANY LOSSES OR DAMAGES RESULTING FROM YOUR USE OF THE WEBSITE.

CERTAIN STATE JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

Notices

Any notices to you from Ellevation regarding the Website or these Website Terms of Use will be posted on this Website or made by email or regular mail.

Electronic Communications

When you visit this Website or send emails to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by email, by posting notices on this Website, or by regular mail. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

Applicable Law; Jurisdiction and Venue

We control our Website from our offices within the United States. We make no representation that the content on our Website is appropriate, legal, or available for use in other locations. Those who choose to access our Website from other locations do so on their own initiative and are responsible for compliance with applicable local laws. You may not use or export any content on our Website in violation of United States export laws and regulations. Any claim relating to our Website or the services or content provided through our Website shall be governed by the laws of the Commonwealth of Massachusetts, without reference to its choice of law provisions.

Arbitration and Dispute Resolution.

All disputes arising out of or relating to these Website Terms of Use or the Website shall be resolved exclusively by binding arbitration before a single arbitrator (the “Arbitrator”) in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the “AAA”) then in effect (for information on the AAA and its rules, see www.adr.org) and the further procedures set forth herein, except that each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party’s copyrights, trademarks, trade secrets, patents, or other intellectual property rights. The arbitration shall be conducted in Boston, Massachusetts, unless the Arbitrator shall determine that that venue is not reasonably convenient to all parties, in which case the Arbitrator shall determine another venue that is. In the event that the AAA is unavailable or unwilling to administer the arbitration, and the parties are unable to agree to a substitute, a substitute shall be appointed by the court. The Arbitrator shall have authority to issue any and all remedies authorized by law. The right and obligation to arbitrate under these Website Terms of Use shall extend to any claim by or against a party’s officer, director, employee, shareholder, affiliate, agent, or contractor. The Arbitrator may render early or summary disposition of any or all issues of fact or law, after the parties have had reasonable opportunity to make submissions on those issues. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 2 et seq. Notwithstanding any rules of the AAA to the contrary, any claims shall be adjudicated on an individual basis only, and YOU WAIVE ANY RIGHT TO BRING ANY CLAIM AS A REPRESENTATIVE OF A PROPOSED CLASS, ON AN AGGREGATED OR MASS BASIS, OR AS A PRIVATE ATTORNEY GENERAL, OR TO CONSOLIDATE ARBITRATION PROCEEDINGS WITHOUT THE CONSENT OF ALL PARTIES THERETO. Any award rendered by the Arbitrator shall be final, conclusive, and binding upon the parties hereto. In connection with any arbitration proceeding pursuant to these Website Terms of Use, unless the Arbitrator shall determine otherwise, each party shall bear its own costs and expenses. Notwithstanding the foregoing, you may at your option file an individual claim in any small claims court for disputes or claims within the scope of its subject matter jurisdiction if such court has personal jurisdiction and the case remains in small claims court. Ellevation does not hereby waive any defense that such jurisdiction may be lacking in your state. Without derogation of the parties’ obligation to arbitrate as set forth herein, for any claims other than those in small claims court, jurisdiction for any court proceedings arising out of or relating to these Website Terms of Use or the Website shall be vested exclusively in, and venue shall be laid in, the state or federal courts sitting Boston, Massachusetts except that, following confirmation of an arbitration award in a state or federal court in Boston, Massachusetts, a judgment arising therefrom may be executed in any court of competent jurisdiction.

Bug Bounty

Ellevation does not currently offer any “bug bounty” program at this time for any reported computer, software, or network vulnerabilities. Any legitimate and valid reported security vulnerabilities will be greatly appreciated, but no compensation can be offered at this time.

Web Browser Support

Access to the Website requires the use of a web browser. Ellevation recommends the use of “modern” web browsers with release dates within the last 18 months for maximum performance and security. Additionally, Ellevation cannot be expected to support all browser extensions. Browser extension compatibility, even for supported browsers, is the responsibility of the user.

Severability

If any part of these Website Terms of Use is determined to be invalid or unenforceable pursuant to applicable law, it will be severable from the remainder of these Website Terms of Use and will not cause the invalidity or unenforceability of the remainder of these Website Terms of Use.

Entire Agreement

These Website Terms of Use, as they may be amended from time to time by us, constitute our entire agreement with you with regard to the Website.

Waiver

Neither party will by mere lapse of time without giving notice or taking other action hereunder be deemed to have waived any breach by the other party of any of the provisions of these Website Terms of Use. Further, the waiver by either party of a particular breach of these Website Terms of Use by the other party will not be construed as, or constitute, a continuing waiver of such breach, or of other breaches of the same or other provisions of these Website Terms of Use.

Digital Millennium Copyright Act

Ellevation reserves the right to block or remove any material on the Website that allegedly infringes another person's copyright. Please be advised that it is Ellevation's policy to terminate the accounts of users who repeatedly violate these Website Terms of Use, including the prohibitions herein against posting of Content that violates the copyrights of others.

The Online Copyright Infringement Liability Limitation Act (OCILLA), a portion of the Digital Millennium Copyright Act known as DMCA Section 512, is a U.S. federal law that provides a safe harbor to online service providers that promptly take down content if someone alleges it infringes their copyright. In accordance with this Act, Ellevation has implemented procedures for receiving written notification of claimed infringements and for processing such claims.

If you believe that material hosted by Ellevation on the Website copies your work in a way that constitutes copyright infringement, you (or your agent) may contact our Copyright Agent listed below, who is designated pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(c)(2), and provide the following information:

1. The complaining party's address, telephone number, and/or email address;
2. Identification of the allegedly infringing material that is to be removed or disabled, and information reasonably sufficient to permit us to locate the material (including, if possible, a link to the material);
3. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
4. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;

5. A statement under penalty of perjury that the information in the notification is accurate that the complaining party is the owner or authorized to act on behalf of the owner of the copyright in the work that is allegedly infringed; and
6. A physical or electronic signature of a person who is the owner or authorized to act on behalf of the owner of the copyright in the work that is allegedly infringed.

Notices should be sent to:

Copyright Agent
Ellevation, Inc.
38 Chauncy St., 9th Floor
Boston, MA 02111
Phone: 617-307-5755
Fax: 617-812-5686
Email: copyright@ellevationeducation.com

If we take measures to remove or disable content, we will make a good-faith attempt to contact the user who uploaded the content so that he or she may make a counter-notification pursuant to 17 U.S.C. § 512(g) of the Copyright Act. Your complaint, along with your personally identifying information, may be shared with the user who uploaded the content at issue. It is our policy to document all notifications of alleged infringement on which we act. As with all legal notices, a copy of the notification may be sent to one or more third parties who may make it available to the public.

If you are a user of the Website, and Content that you have uploaded has been removed or disabled, you may file a counter-notification pursuant to 17 U.S.C. § 512(g) of the Copyright Act. To be effective, the counter-notification must be a written communication sent to the Copyright Agent listed above that includes the following:

1. Your physical or electronic signature;
2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
4. Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located or, if your address is outside of the United States, for any U.S. judicial district in which Ellevation may be found, and that you will accept service of process from the person who provided notification under subsection 17 U.S.C. § 512(c)(1)(C) or an agent of such person.

Updates To These Website Terms of Use

We may at any time change these Website Terms of Use with prospective effect only. When we do, we will update the “last updated” date at the top of these Website Terms of Use indicating when they were last revised. Changes will become effective when posted. If you do not agree to changes to these Website Terms of Use, you may not continue to use this Website.

If you have any questions about these Website Terms of Use, please email us at: info@ellevationeducation.com