

Curriculum Associates, LLC Order Form - Q-28081

This Order Form is being entered into between Curriculum Associates, LLC having an address at 153 Rangeway Road, North Billerica, MA 01862 ("Company") and the Customer 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: Curriculum Associates, LLC	Customer: Boone County Schools, KY
Representative: Tony DeJesus	Contact Name: Geniene Piche-Bley
Email: tony.dejesus@ellevationeducation.com	Email: geniene.piche@boone.kyschools.us
Phone: 617-307-5755	Phone: (859) 283-3225
Address: 153 Rangeway Road, North Billerica, MA 01862	Address: 8330 US Highway 42, Florence, KY 41042
Start Date: 8/1/2022	End Date: 7/31/2023

Subscription Fees

Product	Quantity	Unit Price	Total Fees
Ellevation Platform	1,617	\$13.75	\$22,233.75
Subscription Total:			\$22,233.75

Services Fees

Services Total:	\$0.00
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Total Investment - Q-28081

Grand Total:	\$22,233.75
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Invoicing Schedule: Up Front, In Full

Payment Term: Net 30

Contract Term: 12

Curriculum Associates, LLC

By (Signature): _____

Name (Print): _____

Title: _____

Date: _____

Boone County Schools, KY

By (Signature): _____

Name (Print): _____

Title: _____

Date: _____

Last Updated and Effective: March 20, 2018

Ellevation Platform Terms of Use

These Terms of Use apply only to the Ellevation platform used by educators of English language learners. These Terms of Use does not apply to the Ellevation website (<https://ellevationeducation.com>). Terms of Use for the Ellevation website may be found here <https://ellevationeducation.com/legal-notices>. Ellevation, Inc. (“Ellevation,” “we,” “us”) owns and operates the Ellevation platform (the “Services”). By accessing the Services, you (“End User”) agree to be bound by these Terms of Use. In addition, you represent that you are 18 years of age or older, and are lawfully able to enter into this contract. If you have entered into this Agreement on behalf of your organization, you represent that you have the authority to bind that organization to these Terms of Use. You further represent that you have the right to upload all data that you provide on behalf of yourself and, where applicable, your employees, your organization, students and their parents or legal guardians. If you do not have the necessary authority, or if you do not agree with these Terms of Use, then you may not use the Services. Use of these Services requires that you or your employer (“Customer”) will have entered into a separate Contract with us. In the event of any discrepancy between these Terms of Use and the Contract, the Contract will prevail.

Services

Subject to the terms and conditions of our Contract with you or your employer, and payment of any applicable fees, the Services include a suite of productivity, collaboration and instructional software tools designed to help educators support English Language Learners (“ELLS”) achieve their highest aspirations. We may, in our sole discretion, change or discontinue any features of the Services at any time and without liability to you.

Intellectual Property

You acknowledge that all Service trademarks, service marks and logos are owned by or licensed to Ellevation and are protected by copyright and other intellectual property rights, and that you have no rights to transfer or reproduce the Services, or prepare any derivative works with respect to, or to disclose confidential information pertaining to, the Services. This Agreement is not a sale and does not convey any rights of ownership in or related to the Service or Intellectual Property owned by Ellevation to you. Ellevation represents and warrants that it owns or has the right to use all intellectual property required to provide the Services, including but not limited to any necessary trademark, copyright or patent rights. All right, title and interest in Ellevation’s software solutions, tools and any other Ellevation materials furnished or made available hereunder, including, but not limited to all books, manuals, and reports produced or provided by Ellevation in connection with the Services, and all modifications and enhancements thereof, and all suggestions, ideas and feedback proposed by you regarding such solutions, tools, materials or the Services, if any, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, belong to and are retained solely by Ellevation or its licensors and providers, as applicable. All

rights not granted in this Agreement are reserved by Ellevation. Ellevation acknowledges that all books, manuals, reports and other materials produced in connection with the Services or pursuant to this Agreement, together with any and all information disclosed to Ellevation are hereby acknowledged to be the exclusive property of the Customer, unless and to the extent that the parties agree otherwise, as evidenced in writing and included as a part of the Contract.

Registration

In order to register for membership with the Services, you represent and warrant that you have the legal authority to sign up for an account, under the direction of a Customer under Contract with Ellevation. During registration, you will be required to provide us with certain information in order for us to allow you to complete the registration process and to use certain features and functions of the Services. You agree that you will register only on your own behalf, give us current, complete, truthful and accurate information about you and keep the information up to date.

Customer and End User Responsibilities

Customer and its End Users agree to provide true, accurate, current and complete information to create and maintain accounts, and are responsible for any and all activities that occur under their accounts. Customer and End Users are responsible for any and all activities that occur under their accounts. Customer and End Users shall: (i) maintain the confidentiality of their usernames and passwords; (ii) notify Ellevation immediately of any known or suspected unauthorized access or use of any password or account or any other known or suspected breach of security; (iii) report to Ellevation immediately and use reasonable efforts to stop immediately any known or suspected use of the Service inconsistent with the terms of the License provided herein; (iv) assure that their use of the Service shall at all times comply with all applicable local, state, federal, and international laws, regulations, and conventions, including without limitation those related to data collection, use, disclosure and privacy; international communications; and the exportation of technical or personal data; (v) assure that use of the Service shall at all times conform to the terms and conditions of this Agreement; and (vi) not impersonate another user of the Service or provide false identity information to gain access to or use the Service.

Privacy

Ellevation is committed to protecting the privacy of its users, and maintains a Privacy Policy that applies to the use of the Services and to information we may collect as part of your use of the Services.

Confidentiality of Student Records

As part of its Contract with Customers, Customers agree to appoint Ellevation as a “school official” as the term is used in the Family Educational Rights and Privacy Act (“FERPA”), 34 C.F.R. §99 et. seq., and determines that Ellevation has a “legitimate educational interest,” for

the purpose of carrying out its responsibilities under this Agreement. Ellevation agrees to be bound by the relevant provisions of FERPA, including that it will remain under the “direct control” of Customer with respect to its collection, use and handling of personally identifiable student data. Ellevation will use personally identifiable student data only to fulfill the Services in performance of its Contract, and, consistent with the provisions of the Contract, these Terms of Use and Privacy Policy, will only share personally identifiable student data with its third party partners as necessary to fulfill the Services in performance of this Agreement.

Response to Legal Requests for Data.

Ellevation’s Customers retain ownership and control of all their personally identifiable student data that Ellevation maintains. At no point is Ellevation the owner of such data, nor at any point does Ellevation control such data. In the event that Ellevation receives a court or other law enforcement request, including but not limited to an administrative subpoena or judicial warrant, for access to, use of, or inspection of Customer data, including Customer’s student data, wherever legally permissible, Ellevation will not act directly on such request, but will instead promptly refer such requests directly to Customer. To the extent Ellevation is legally required to provide the information requested prior to or in addition to such referral, wherever legally permissible Ellevation will promptly notify the Customer of the request and its intent to comply with the request.

Security

We are ISO 27002 compliant, an internationally recognized set of information security standards. As such, security measures to maintain the confidentiality, security, and integrity of the data entrusted to Ellevation have been deployed. These security measures, both technical and procedural, are continuously being monitored, tested, evaluated, and improved. We deploy commercially reasonable security precautions intended to protect against unauthorized access to any of our Customer data. We store data in secure server and cloud-based environments that use firewalls, VPNs, event logging, and other industry-standard protections in an effort to monitor and prevent access from outside intruders. We also encrypt the data in transit, require unique account credentials, and limit data access. Not all security risks are reasonably foreseeable, however, and Ellevation is not responsible for the consequences of security incidents that are not reasonably foreseeable and not reasonably within its control.

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 Services; (ii) any information you submit, post, or transmit

through our Services; (iii) breach of any of your obligations, representations, or warranties in these Terms of Use; or (iv) your violation of any rights of another person.

DISCLAIMER OF WARRANTIES

THE SERVICES ARE 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 SERVICES, ANY FAILURES, DELAYS OR INTERRUPTIONS IN THE SERVICES’ ACCESSIBILITY, ANY LOSSES OR DAMAGES ARISING FROM THE USE OF THE SERVICES, ANY CONDUCT BY OTHER USERS ON THE SERVICES, OR UNAUTHORIZED ACCESS TO OR USE OF THE SERVICES OR SERVERS.

Limitation of Liability

YOU UNDERSTAND AND AGREE THAT THE OWNER WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PRODUCTS, USE, DATA OR OTHER INTANGIBLE LOSSES, EVEN IF THE OWNER HAS BEEN ADVISED OF THE POSSIBILITIES OF THOSE DAMAGES, RESULTING FROM YOUR USE OR INABILITY TO USE THE SERVICES, CONTENT OR SOFTWARE, 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 SERVICES, OR STATEMENTS OR CONDUCT OF ANY THIRD PARTY, OR ANY OTHER MATTER RELATED TO THE SERVICES, CONTENT OR SOFTWARE. YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS PREDICATED UPON YOUR WAIVER OF ANY RIGHT TO SUE THE OWNER OR ITS AFFILIATES DIRECTLY OR TO PARTICIPATE IN A CLASS ACTION SUIT FOR ANY LOSSES OR DAMAGES RESULTING FROM YOUR USE OF THE SERVICES. 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 Services or these Terms of Use will be posted on the Services or made by email or regular mail to the business contact of record for the Contract governing your use of the Services.

Applicable Law Jurisdiction and Venue

We control our Services from our offices within the United States. We make no representation that the Content on our Services is appropriate, legal or available for use in other locations. Those who choose to access our Services from other locations do so on their own initiative and are responsible for compliance with applicable local laws. You may not use or export the Content in violation of United States export laws and regulations. Any claim relating to our Services, the services provided through our Services or the Content shall be governed by the laws of the Commonwealth of Massachusetts, without reference to its choice of law provisions. If there is a dispute between you and us, you expressly agree that exclusive jurisdiction and venue reside in the state and federal courts located in Boston, Massachusetts.

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 Matrix

Access to the platform requires the use of a web browser. Ellevation supports most modern web browser applications. The current list of support browsers and their version numbers are as follows. All others are classified as unsupported. Additionally, Ellevation cannot be expected to support all browser extensions. Browser extension compatibility, even for supported browsers, is the responsibility of the client.

Browser	Supported	Unsupported
Microsoft Edge	✓	
Microsoft IE v11	✓	
Microsoft IE less than v11		✓
Apple Safari v10 +	✓	
Apple Safari less than v10		✓
Google Chrome v56 +	✓	
Google Chrome less than v56		✓
Mozilla Firefox v51 +	✓	
Mozilla Firefox less than v51		✓
All others		✓

Supported: Ellevation performs full system testing against these third-party applications and verifies that all functions within the platform operate properly. Should any of these browsers

fail to work within the platform, Ellevation will take all commercially reasonable steps to ensure that the platform works properly with these browser applications.

Unsupported: Unsupported browsers maybe end-of-life by the vendor, lack security fixes, or contain performance or technical issues which may impact the functionality or operation of platform service applications. While they might render the platform correctly, that is not guaranteed. Customer Support Help Desk will not investigate issues related to these browser applications.

Severability

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

Updates To These Terms

We may change these Terms of Use in the future. When we do, we will post a notice within the product and provide other notifications as required by law. If we make material changes to these Terms of Use, we will notify our primary Customer contact via the email address we have in our records and changes will become effective in 30 days after the “last updated” date at the top of this policy. Customers with concerns on any material changes should reach out to their account representative to have them addressed within this time. Non-material changes will become effective when posted in Ellevation. The “last updated” date at the top of this policy indicates when it was last revised.

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 this Agreement. Further, the waiver by either party of a particular breach of this Agreement 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 this Agreement.

If you have any questions regarding these Terms of Use, please contact us at: Ellevation, Inc.

P.O. Box 961870

Boston, MA 02196

Phone: 617-307-5755

Fax: 617-812-5686

Alternatively, you can email us at: info@ellevationeducation.com » Read more at <https://ellevationeducation.com/platform-legal-notice>