

Issue Paper

DATE:

05/18/2022

AGENDA ITEM (ACTION ITEM):

Consider/Approve Dixie Heights High School would like to enter into contract with Proven Learning for the 2022/23 school year for the purpose of a 1 year school license for GradeCam.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

Each school year Dixie Heights High School contracts with Proven Learning and the use of their GradeCam system. The contract consists of the GradeCam License renewal which includes their core tools, student portals for paperless testing on devices in addition to the traditional paper with cameras, free technical support, online training resources and all updates.

FISCAL/BUDGETARY IMPACT:

The cost of the services (based on our number of students) is \$4461.00 which will be paid from the Esser Grant funds allocated to Dixie Heights High School.

RECOMMENDATION:

Approval to Dixie Heights High School to enter into contract with Proven Learning and their GradeCam system for the 2022/23 school year.

CONTACT PERSON:

Andrew Wise/Teresa Catchen

Psincipal/Administrator

District Administrator

Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal -complete, print, sign and send to your Director. Director -if approved, sign and put in the Superintendent's mailbox.



BILL TO:

Kenton County Schools - KY Accounts Payable 1055 Eaton Drive Ft. Mitchell KY

41017

Proven Learning

1067 N. Main Street #266 Nicholasville

KY

UNITED STATES 40356

SHIP TO:

Kenton County Schools - KY Dixie Heights HS / N. Neimi 3010 Dixie Highway Ft. Mitchell KY

41017

Quote

Valid Until: Dec 1, 2022 Quote Number: PLQ7902

Account Name: Kenton County Schools - KY Contact Name:

S.No. Product Details

. -GradeCam Go! - 1 YR School License 5th Renewal (NP205) 11240

 Qty
 List Price
 Total

 1487
 \$ 3.00
 \$ 4,461.00

GradeCam School License 5th Renewal. Includes Core (streamlined, data-driven tools: Advanced Administrator Reports, Helpdesk, and Advanced Teacher Drill-down) and Student Portal (Allows for paperless testing on devices in addition to the traditional paper with cameras). Includes free technical support, online training resources and all updates.

Sub Total \$4,461.00
Tax \$0.00
Adjustment \$0.00
Grand Total \$4,461.00

Terms and Conditions

Questions? Contact Gary Fleck at 859-351-8585 (gary.fleck@provenlearning.com) Please fax POs to (888)431-4690 or email them to my address. Proven Learning is the sole source provider of GradeCam in Kentucky.

Addendum to the Gradecam Inc. Terms of Service between the Kenton County Board of Education and Gradecam, Inc.

WHEREAS, the Kenton County Board of Education ("KCBOE"), and Gradecam, Inc. ("Gradecam") are parties to a Service Agreement composed of Gradecam's Terms of Service, accessible at https://gradecam.com/terms-of-service/. The KCBOE and Gradecam may be individually referred to as the "Party" or collectively referred to as the "Parties."

WHEREAS, the Parties agree to modify the terms contained in the Terms and Conditions of Use, pursuant to the terms and conditions of this Addendum.

WHEREAS, all additions made herein shall be valid as if part of the Gradecam's Terms of Service.

NOW, THEREFORE, the amendments are as follows:

Miscellaneous Section g: is amended to read, as follows:

g. Choice of Law & Jurisdiction. These Terms of Service will be governed solely by the internal laws of the Commonwealth of Kentucky, without reference to such State's principles of conflicts of law. The parties consent to the personal and exclusive jurisdiction of the federal and commonwealth courts of Kenton County, Kentucky within the city of Covington, Kentucky,

Centon Co	unty Board of Education:	Gradec	am, Inc.:
Signed:		Signed:	190
Name:		Name:	Scott HICKSON
Title:		Title:	CEO
Date:		Date:	8/25/22

Terms of Service

GRADECAM TERMS OF SERVICE

Please read these Terms Of Service carefully, as they constitute an agreement by and between GradeCam Co corporation ("GradeCam") and each customer of GradeCam's online service ("You"). By clicking "Accepted and these terms of service.

Definitions.

- a. "Account" refers to the Service plans and features used by You through GradeCam's customer portal at the paccepted by GradeCam, as such plans and features may change by mutual consent of the parties, as recorder such portal.
- b. "Effective Date" refers to the date of commencement of the Service as listed in Your Account, or in the case district, the effective date of an agreement between GradeCam and You.
- c. "Materials" refers to written and graphical content provided by or through the Service, including, without limit illustrations, designs, and software code.
- d, "Your Data" refers to data in electronic form input or collected through the Service by or from You.
- e. "Student Data" is a subset of Your Data, and is any data that contains personally identifiable information of a the Family Educational Rights and Privacy Act ("FERPA"), 34 CFR § 99.3.
- f. "Privacy Policy" refers to GradeCam's privacy policy, posted at https://gradecam.com/privacy/, including any
- g. "Service" refers to GradeCam's webcam exam-grading service. The Service includes such features as are p website (gradecam.com), as GradeCam may change such features from time to time, in its sole discretion.

Service & Payment.

- a. Service. GradeCam will provide the Service to You pursuant to its policies and procedures then in effect.
- b. Payment. You will pay GradeCam such monthly Service fees as are required in Your Account, due on the da calendar month of Service.

Materials, Software, & IP.

- a. Materials. You recognize and agree that: (i) the Materials are the property of GradeCam or its licensors and copyright, trademark, and other intellectual property laws; and (ii) You do not acquire any right, title, or interest except the limited and temporary right to use them as necessary for Your use of the Service.
- b. IP in General. GradeCam retains all right, title, and interest in and to the Service, including without limitation provide the Service and all logos and trademarks reproduced through the Service, and these Terms of Service intellectual property rights in or to the Service or any of its components.

Acceptable Use.

- a. You agree to:
- i. only use the Service in compliance with all applicable laws, rules, and regulations, including FERPA and any Your school, Your school district, the United States Department of Education, or other educational authority reg student information with GradeCam;
- ii. allow GradeCam to re-share information with third parties, when You so designate (e.g., with online GradeDam
- iii. only use the Service for its intended purpose, which is to grade educational examinations;
- iv. only use the service according to the terms of the pricing plan that You signed up for;
- v. not provide access to the Service to third parties that are not authorized to use it;
- vi. not access any computer or communications system without authorization, including the computers used to vii. not attempt to penetrate or disable any security system, either within the Service itself or by using the Syste party security system;
- viii. not intentionally distribute a computer virus, launch a denial of service attack, or in any other way attempt to functioning of any computer, communications system, or website;
- ix, not attempt to access or otherwise interfere with the accounts of other users of the Service;
- v not in any way defraud to decaive either GradeCam the Service or any user of the Service

GradeCam sharing information with third party service providers where You indicate that You so consent, for ex GradeCam Service provides data, including Student Data, with other services for keeping of grades and school service be provided as a stand-alone computer application or as an online, Internet-based service. Notwithstar GradeCam may disclose Your Data as required by applicable law or by proper legal or governmental authority. You reasonable notice of any such legal or governmental demand and reasonably cooperate with You in any expense.

Your Rights. You possess and retain all right, title, and interest in and to Your Data, and GradeCam's use and possess are solely as Your agent.

Retention & Deletion. GradeCam may retain all Your Data until erased pursuant to Your request. However, Gra grading service and not a data storage service. You are responsible for maintaining separate backups of all Yo has no responsibility if GradeCam, for any reason, erases or no longer possesses Your Data.

Term & Termination.

Term. These Terms of Service will continue for such time as You continue to use the Service, or until terminate section.

Termination for Cause. Either party may terminate these Terms of Service for material breach by written notice Termination For Failure to Abide By Acceptable Use Policy. GradeCam may terminate this Agreement immedia discretion, it determines that You have violated one or more of the terms of Section 4(a).

Effects of Termination. The following provisions will survive termination of these Terms of Service: (i) any obligation Service rendered before termination; (ii) Sections 3 through 8 and 10 of these Terms of Service; and (iii) any ot Terms of Service that must survive termination to fulfill its essential purpose.

Miscellaneous.

- a. Notices. GradeCam may send notices pursuant to these Terms of Service to the email address You used to Account (or other email addresss(es) You provide to GradeCam in Your Account), and such notices will be dee business days after they are sent. You may send notices pursuant to these Terms of Service to support@gradenotices will be deemed received two business days after they are sent.
- b. Amendment. GradeCam may amend these Terms of Service from time to time by posting an amended versi notifying You of the amendment, either via email or by a message when You log into the Service. Such amendi accepted and become effective 30 days after such notice (the "Proposed Amendment Date"). However, change functions for a Service or changes made for legal reasons (e.g., changes in the law or changes in interpretation effective immediately. If You do not agree to the modified terms for a Service, You should discontinue Your use c. Independent Contractors. The parties are independent contractors and will so represent themselves in all rependent of the other and neither may bind the other in any way.
- d. No Waiver. Neither party will be deemed to have waived any of its rights under these Terms of Service by lap statement or representation other than (i) by an authorized representative and (ii) in an explicit written waiver. It these Terms of Service will constitute a waiver of any prior or subsequent breach of these Terms of Service.
- e. Force Majeure. To the extent caused by force majeure, no delay, failure, or default will constitute a breach of Service.
- f. Assignment & Successors. Neither party may assign these Terms of Service or any of its rights or obligations other's express written consent, except that either party may assign these Terms of Service to the surviving pa party into another entity. Except to the extent forbidden in the previous sentence, these Terms of Service will be inure to the benefit of the respective successors and assigns of the parties.
- g. Choice of Law & Jurisdiction. These Terms of Service will be governed solely by the internal laws of the Stat reference to such State's principles of conflicts of law. The parties consent to the personal and exclusive jurisdi state courts of Alameda County, California.
- h. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that wo these Terms of Service invalid or otherwise unenforceable in any respect. In the event that a provision of these held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to permitted by applicable law, and the remaining provisions of these Terms of Service will continue in full force at i. Entire Agreement. These Terms of Service sets forth the entire agreement of the parties and supersedes all provisions with respect to the subject matter hereof. Neither par such prior or contemporaneous communications.

GRADECAM, LLC

Privacy Policy





Our Privacy Pledge

GradeCam is committed to protecting your privacy and the privacy of student information. We do not sell, rent information to third parties, and we do not target advertising at you or at students.

Privacy Policy

Last Update: March 28, 2016

GradeCam, LLC ("GradeCam", "our", "us" or "we") provides this Privacy Policy to inform you of our policles and the collection, use, and disclosure of personal information we receive from users of the GradeCam website and and services (the "Services"). This Privacy Policy applies only to information that you provide to us through the Services in any way, you agree to the terms of this Privacy Policy. If you do not agree to these terms, do not ac Service.

CHILDREN AND PERSONAL INFORMATION

Persons under the age of 18 may not sign up for the Services, and may only use the Services with the consent guardian.

For Education Clients (teachers, schools, or school districts), please see "STUDENTS AND EDUCATION CLIE

INFORMATION WE COLLECT ABOUT YOU

Information provided to us. We may collect and store any personal information you provide to us via the Se information may include, without limitation, your name, your email address, school district and title. This infor provided to us directly by you, or if you are an employee of an organization or school, the organization or sch limited personal information.

Information from other sources. Except as described above, we do not collect or obtain personal information third-party sources.

Information you may upload. If you use our Services to upload and/or share information, such information in purpose of allowing such uploading and sharing.

Information from the use of cookies and other technologies.

Information collected automatically. We automatically collect information from your browser when you use information includes your IP address, your browser type and language, access times, the content of any under your browser previously accepted from us, and the referring website address.

Device identifiers. When you visit the Service we may access collect monitor and/or store on your mobile

HOW WE SHARE THE INFORMATION WE COLLECT

We do not share your personal information with others except as indicated below or when we inform you and g to opt-out of having your personal information shared. We do not sell, rent or lease our customer lists to third p your personal information as follows:

Authorized service providers: We may share your personal information with our authorized service provide certain services on our behalf. These services may include performing business and sales analysis and supp functionality. These service providers may have access to personal information needed to perform their funct permitted to share or use such information for any other purposes.

Other Situations. We also may disclose your information:

In response to a subpoena or similar investigative demand, a court order, or a request for cooperation from a other government agency; to establish or exercise our legal rights; to defend against legal claims; or as other in such cases, we may raise or waive any legal objection or right available to us, in our sole discretion.

When we believe disclosure is appropriate in connection with efforts to investigate, prevent, report or take of illegal activity, suspected fraud or other wrongdoing; to protect and defend the rights, property or safety of ou our employees, or others; to comply with applicable law or cooperate with law enforcement; or to enforce our conditions or other agreements or policies.

In connection with a substantial corporate transaction, such as the sale of our business, a divestiture, merger asset sale, or in the unlikely event of bankruptcy.

DO NOT TRACK

GradeCam does not currently respond to do-not-track signals that may be sent from your device. If we do so in provide information about that practice in an updated version of this Privacy Policy.

YOUR ACCESS TO YOUR INFORMATION

You can review and update your personal information by contacting us at: info@gradecam.com.

HOW WE PROTECT YOUR PERSONAL INFORMATION

We take security measures (including physical, electronic, and procedural measures) to help safeguard your punauthorized access and disclosure. We use SSL encryption on our application and signup forms. While on a sour application page, the lock icon on the bottom of Web browsers such as Firefox and Microsoft Internet Exploopposed to un-locked, or open, when users are just 'surfing'.

All of our users' information, not just the sensitive information mentioned above, is restricted in our offices and employees who need the information to perform a specific job (for example, a customer service representative) personal information. All employees are trained and kept up-to-date on our security and privacy practices. Fina store personal information are in a secure environment.

GradeCam cannot guarantee security. Unauthorized entry or use, hardware or software failure, and other facto security of user information. For additional information on our security, please visit our security page.

OPTING IN OR OUT OF COLLECTION AND USE OF YOUR INFORMATION

You have the choice not to provide us with personal information. However, that may result in you being unable Services.

If you are an Administrator of the Services, we may send you email messages or updates from time to time about improvements, or updates. When you open an account with us, you will be given a choice if you want to receiv updates. At any time, you may choose to opt out.

If you cease using the Services, we may still retain certain information associated with your account for analytic keeping integrity, as well as to prevent fraud, enforce our terms and conditions, take actions we deem necessa integrity of our Services or our users, or take other actions otherwise permitted by law.

STUDENTS AND EDUCATION CLIENTS

The Services are usually provided at the request of a teacher, school or school district ("Education Clients"). W agrees to our Terms of Service, it represents to us that it may provide to us, or permit us to gather, the limited provided above in "Information provided to us" with respect to students because it has obtained parental cons with applicable laws regarding notification and consent to use of student information and educational records. I collected personal information from a student under 13 without parental consent being obtained by the Education a student under 13 has provided us personal information beyond what we request from him or her when using delete that information immediately.

This Privacy Policy does not create rights enforceable by third parties or require disclosure of any personal info users of the Services.

CHANGES TO THIS PRIVACY POLICY

GradeCam will occasionally update this Privacy Policy to reflect customer feedback and changes in our practic will notify you of changes, and we will revise the "Last Updated" date at the top of this Privacy Policy.

HOW TO CONTACT US

GradeCam welcomes your questions or comments regarding this Statement of Privacy.

GRADECAM, LLC

P.O. Box 151

Livermore, California 94551

Email Address: info@gradecam.com

Telephone number: 866-472-3339

Security





Ensuring the privacy and security of our customer's data is important to us. GradeCam secures customer data in the following ways:

Remote Data Access and Transit

GradeCam provides a multi-faceted security approach that includes physical, network, web, system, application, and data security to protect our customer's data from intrusion and unauthorized access.

GradeCam requires users to create a unique username and password that is always required to access the user's data.

Upon login, the user is issued a session 'cookie' that is only used to record encrypted authentication information for the duration of the session. The session cookie does not include either the username or the password of the user.

All data transmitted between a User's browser and our servers is encrypted using current TLS protocols, using the most secure connection that the browser will support.

Idle sessions are automatically logged out after 20 minutes of inactivity.

Data Storage

All US customer data is stored in data centers located in the United States. These data centers comply with SOC2, SSAE 16 and HIPAA audit requirements. The latest reports for these certifications can be provided on request.

Our servers are protected by firewalls.

Physical access to our servers is strictly limited to authorized personnel and requires Multi-Factor authentication, requiring a PIN + RFID card or biometric identification.

The data centers are under 24/7 surveillance with security guards on-site and all access to the premises is logged.



THE KENTON COUNTY BOARD OF EDUCATION

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017 TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531 WEBSITE: www.kenton.kyschools.us Dr. Henry Webb, Superintendent of Schools

VENDOR ASSURANCES REGARDING PROTECTION OF PERSONAL AND CONFIDENTIAL INFORMATION

Data Security and Breach Protocols

Vendors that receive Personal Information from Kenton County Board of Education (herein referred to as "KCBOE") as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account number, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by any agency as defined under the Act;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" includes any person or entity that has a contract or agreement with the KCBOE and receives (accesses, collects or maintains) personal information from the KCBOE pursuant to the contract or agreement.

The vendor hereby agrees to cooperate with the KCBOE in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, KCBOE, the Commissioner of the Kentucky State Police, the Kentucky Auditor of Public Accounts, the Commonwealth (Kentucky) Office of Technology, and the Commissioner of the Kentucky Department of Education of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)(2) applies and the vendor abides by the requirements set forth in that exception. Notification shall be in writing on a form developed by the Commonwealth (Kentucky) Office of Technology.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor hereby agrees that the KCBOE may withhold payment(s) owed to the vendor for any violation of the Act's notification requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any security breach as defined under the Act in accordance with KRS 61.933.

Upon conclusion of an investigation of a security breach as defined under the Act as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a), the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth (Kentucky) Office of Technology and that are reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

Student Data Security

Pursuant to KRS 365.734, if the vendor is a cloud computing service provider (which is defined pursuant to KRS 365.734(1)(b) as any person or entity other than an educational institution that operates cloud computing services) or, through service to the KCBOE, becomes the equivalent of a cloud computing service provider, the vendor further hereby agrees that:

- The vendor shall not process student data as defined pursuant to KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the vendor receives express permission from the student's parent. The vendor shall work with the KCBOE to determine the best method of collecting parental permission.
- With a written agreement for educational research, the vendor may assist the KCBOE to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C.sec.1232g.
- Pursuant to KRS 365.734, the vendor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
- Pursuant to KRS 365.734, the vendor shall not sell, disclose, or otherwise process student data for any commercial purpose.
- Pursuant to KRS 365.734, the vendor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Family Educational Rights and Privacy Act, National School Lunch Act and Child Nutrition Act

If during the course of this agreement, the KCBOE discloses to the vendor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. sec. 1232g, et seq.), and its regulations, and data protected by the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. sec. 1751 et seq., and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. sec. 1771 et seq.), the vendor agrees that it is bound by and will comply with the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor agrees that FERPA-protected information is confidential information. FERPA-protected information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific

student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

GRADECAM, LLC.	
Vendor Name	
1154 STEATH STREET, LIVERTORE, CA GI	1551
Vendor Address	
866. 472. 3339	
Vendor Telephone	
ACLOUNTING @ GRADECAM, COM	
Vendor Email Address	
SHILL	•
Signature by Vendor's Authorized Representative	
SCOTT HICKSON	•
Print Name	
8/25/22	
Date	