



Issue Paper

DATE:
07/12/2023

AGENDA ITEM (ACTION ITEM):
Consider/Approve The sales contract with Grace Notes LLC for the Sight Reading Factory program. This sales contract is for 1 educator and 40 students.

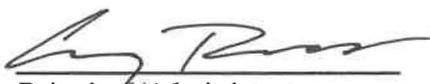
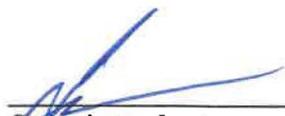
APPLICABLE BOARD POLICY:
01.1 Legal Status of the Board

HISTORY/BACKGROUND:
The Sight Reading Factory is a web based program that is utilized in our fine arts department to provide web based music for our students to play from. This program will be utilized in both choir classes as well as guitar classes for sight reading materials (teaching students music by reading notes). The program will be utilized daily to generate a new piece of music for the students to learn from.

FISCAL/BUDGETARY IMPACT:
\$196.20 - School Allocation

RECOMMENDATION:
Approval to purchase the subscription for 1 year for The Sight Reading Factory product for 1 teacher and 40 students at Simon Kenton High School.

CONTACT PERSON:
Jeffrey Bonlander, Buddy Tyree, Craig Reinhart


Principal/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.*



Kenton County Schools District | It's about ALL kids

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.

GraceNotes, LLC.

Vendor Name

1321 Upland Drive, Suite 12621
Houston, TX 77043

Vendor Address

888-433-7722

Vendor Telephone

orders@sightreadingfactory.com

Vendor Email Address

NED'Alema

Signature by Vendor's Authorized Representative

Nancy D'Alema

Print Name

10/11/2022

Date

**Addendum to
the Sight Reading Factory Terms of Service between
the Kenton County Board of Education and Grace Notes LLC.**

WHEREAS, the Kenton County Board of Education ("KCBOE"), and Grace Notes LLC. ("Sight Reading Factory") are parties to a Service Agreement composed of Sight Reading Factory's Terms of Service.. The KCBOE and Grace Notes LLC 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 of Service, pursuant to the terms and conditions of this Addendum.

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

NOW, THEREFORE, the addition is as follows:

Dispute Resolution

We prefer to resolve things amicably when possible; therefore, you agree to the following dispute resolution policy in connection with any potential claims or disputes arising from your use of the Application. Start by notifying us of your dispute by sending a notice to the contact email address listed above.

1. **Informal Negotiations:** Parties to a dispute concerning the Terms, the Privacy Policy, or the use of the Services will attempt to informally negotiate a potential settlement or resolution to the dispute;
2. **Arbitration:** In the event that informal negotiations are unsuccessful, the parties agree to follow the arbitration procedures set forth by the American Arbitration Association (AAA) to resolve the dispute.
3. **Binding Arbitration:** If for any reason arbitration is unsuccessful or unavailable to the parties, parties agree to submit to binding arbitration in the jurisdiction of the Commonwealth of Kentucky. Each of us is responsible for paying our own filing, administrative and arbitrator fees. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. To the extent any dispute arising from or relating to the subject matter of this Agreement is permitted to be brought in a court of law, such claim shall be subject to the exclusive jurisdiction of the state and federal courts located in Kenton County, Kentucky, and for all purposes of this Agreement, you and Gimkit consent to the exclusive jurisdiction and venue of such courts.

Kenton County Board of Education:

Signed: _____

Name: _____

Title: _____

Date: _____

Grace Notes, LLC.:

Signed: N D'Alema _____

Name: Nancy D'Alema _____

Title: Accounts Manager _____

Date: 10/20/2022 _____



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Terms of Service

Sight Reading Factory (the “Service,” or “SRF”) is a product of GraceNotes, LLC (“GraceNotes,” “we,” or “us”), a Virginia limited liability company. These terms (“Terms of Service”) govern the use of all user accounts, as well as all activity on, in, or related to the Service or the SRF web site, or otherwise as stated in these Terms.

Account Terms

You must provide valid registration information as requested by SRF.

Each account may only be used by one (1) person. A single account may not be shared between multiple people.

You are responsible for the security of your account and password. We cannot and will not be liable for the results of security breaches that result from your failure to comply with this security obligation.

You may not share your password.

Your account subscription fees will be charged in USD (United States Dollars).

You are fully responsible for all content posted and all activity that occurs under your username and/or password.

You may not use the Service for any illegal activities.

You must not, throughout your use of the Service, violate any applicable laws in your jurisdiction, and this is including, but not limited to, copyright laws.

GraceNotes may review your account at any time for any reason.

If you are not 100% satisfied with your purchase, we will fully refund the cost of your order within seven (7) days from the purchase date. No refunds will be granted after seven (7) days from the purchase date.

General Conditions

Your use of the Service is at your own risk.

GraceNotes does not accept responsibility for any user who uses the website for any purpose other than for which it is intended.

Material on this website may be printed one time for each piece, for personal or educational use only. No material on this website may be reprinted, distributed, published, or sold without the express written consent of GraceNotes.

GraceNotes retains all rights to music generated at SightReadingFactory.com. The license granted to our users is limited to the terms of these Account Terms and may not be sublicensed or transferred.

We may remove any content, materials, files, or data that we determine, in our sole discretion, are violating the terms of service or are otherwise harmful, including but not limited to content deemed unlawful, offensive, threatening, libelous, defamatory, pornographic, explicitly obscene, generally objectionable, or violating any party's intellectual property. We may disable, limit, or delete accounts that we determine, in our sole discretion, to be associated with or compromised by any such content, materials, files, or data. Verbal, physical, written or other abuse (including threats of abuse or retribution) of any GraceNotes employee, member, or officer will result in immediate account termination and potential criminal charges.

You must not transmit any worms, viruses or any other code of a destructive and furtive nature.

GraceNotes does not guarantee that (i) the service will meet your specific requirements, (ii) the service will be uninterrupted, timely, secure, or error-free, (iii) the results that may be obtained from the use of the service will be accurate or reliable, (iv) the quality of any products, services, information, or

other material purchased or obtained by you through the service will meet your expectations, and (v) any errors in the Service will be corrected. GraceNotes bears no liability for any losses of any kind that you may incur through the use of the Service.

The failure of GraceNotes to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service constitutes the entire agreement between you and GraceNotes and governs your use of the Service, superseding any prior agreements between you and GraceNotes (including, but not limited to, any prior versions of the Terms of Service).

The liability of GraceNotes and any other person or entity associated with us, for any claim or cause of action related to the Service, regardless of the identity of the claimant or the specific cause of action pursued, shall be limited to: (a) a refund of the purchase amount paid by the claiming user for access to and use of the Service, if the claiming person or entity is a user of the Service, or (b) five hundred dollars (\$500.00) if the claiming person or entity is not a user of the Service.

Questions about the Terms of Service should be sent to info at [sightreadingfactory dot com](mailto:info@sightreadingfactory.com).

All content posted on the Service must comply with U.S. copyright law. GraceNotes does not pre-screen posted content, but GraceNotes and its designee have the right (but not the obligation) in their sole discretion to refuse or remove any content that is available via the Service.

The look and feel of the Service is copyright ©2023 Gracenotes, LLC. All rights reserved. You may not duplicate, copy, or reuse any portion of the HTML/CSS or visual design elements without express written permission from GraceNotes.

Technical support is only provided to paying account holders and is only available via email.

You understand that GraceNotes uses third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Service.

You agree to defend, indemnify and hold harmless GraceNotes, its contractors, and its licensors, and their respective directors, officers, employees and agents from and against any and all claims and expenses, including legal fees, arising out of your use of the Website and Service, including but not limited to indemnification for your violation of any representation or warranty contained in these Terms of Service.

Modifications, Cancellations, Suspensions and Terminations to Accounts and Services

GraceNotes reserves the right at any time, with or without notice, to modify or discontinue the Service, temporarily or permanently.

GraceNotes reserves the right to change the prices of any and all services upon 30 days' notice.

GraceNotes shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

GraceNotes, in its sole discretion, has the right to suspend or terminate your account and refuse any and all current or future use of the Service, or any other GraceNotes service, for any reason at any time. Such termination of the Service will result in the deactivation or deletion of your account or your access to your account, and the forfeiture and relinquishment of all content in your account.

GraceNotes, in its sole discretion, reserves the right to refuse service to anyone for any reason at any time.

For accounts that were activated with a purchase order, if payment is not received within sixty (60) days of the date of activation, the account(s) will be suspended until payment is received. Credit will not be given for the time of suspended service.