



TERMS AND CONDITIONS

k-Purchase LLC provides an ordering made easy, no-cost purchasing solution (“**Solution**”) consisting of three key elements: the k-Purchase Software, a Marketplace, and a Purchasing Advocate. This document defines the relationship between the undersigned organization (“**you**”, “**your**”), and k-Purchase LLC and our affiliates (“**we**”, “**us**”, “**our**”). By using the Solution you agree to the Terms and Conditions stated below.

1. **k-Purchase Software (“Software”).** This cloud-based platform will help you manage and control your purchasing process. The platform includes: 1) screen interfaces and tools, and 2) your data (“**Your Data**”), which means all of the data that you will provide to us, and the specifics of the orders for which you will use the Solution to process.

a. **License.** We own the Software, and grant you a non-exclusive, non-transferable limited license to use the Software on our controlled servers.

b. **Access and privacy.** You will decide which of your staff may use the Software (“**Authorized Staff**”). We will provide a template and tools for you to submit and update the names, roles, responsibilities, purchasing limits, permissions and contact information of your staff, along with the specifics of your purchasing approval process. We will customize the Software accordingly. Authorized Staff will be able to access the Software from any computer connected to the Internet, using a user name and password.

c. **Data ownership.** Your Data is solely your property. Unless requested in writing by you, we will not allow Your Data to be accessed by any third party (“**Third Party**”), which means all other parties except us. Therefore, without your written approval, no Third Party will be able to use Your Data to directly contact your staff, unless you directly provide Your Data to a Third Party. Notwithstanding the foregoing, if required by law to disclose any of Your Data to any Third Party, we will comply with such requests. If legally permitted, we will notify you promptly of any such requests.

d. **Use of Your Data by us.** You grant to us a non-exclusive, royalty-free, perpetual, limited license to maintain and access Your Data. Your Data will allow us to create analytic products (“**Analytic**

Products”), which means information such as reports that we will derive from Your Data and similar data from other school districts. The combination of Your Data with similar data from other districts will make possible Analytic Products that document the collective buying power of our client base, in order to provide benefits to you such as: 1) help secure additional Marketplace vendors, and 2) help identify new products and discount pricing opportunities. Analytic Products also will provide benefits to you such as: 1) improve the Software, and 2) support customer service, the Marketplace, and Purchasing Advocate services. Although the Analytic Products, although owned by us, will maintain the confidentiality of Your Data.

e. **Use of Your Data and Analytics Products by you.** You may use and download Your Data, and any Analytic Products that we provide to you.

2. **Marketplace.** The Marketplace will be delivered through the Software. You will need to open an account with each Marketplace vendor, just as you currently do with new vendors. Likewise, vendors will invoice you directly, and you will be responsible for timely payment.

3. **Purchasing Advocate.** We will assign you a Purchasing Advocate who will: 1) help employ our QuickStart Advantage Program to facilitate set-up and training, 2) serve as your support person for all of your needs related to the Solution, 3) communicate with you about updates and any additional training, and 4) provide merchandising expertise to identify additional vendors, products and discount pricing. Your Purchasing Advocate will periodically communicate suggestions to you about how to better use the Solution, as well as share ideas and present targeted purchasing opportunities.

4. **Cost.** There is no cost to you for any part of the Solution, including updates and support. We ask that you consider using the Marketplace whenever possible, because: 1) the vendors have agreed to share with us a portion of each Marketplace sale, and this is what allows us to provide the Solution at no cost to you, and 2) your use of the Marketplace will support the resources required for us to continually improve the Solution.

5. **No limits on where you purchase.** You may purchase from any source, and use the Solution to process any order that is generated outside of the Marketplace.

6. **Gift to you.** We will set aside, and annually distribute, five percent of the money that vendors share with us from your purchases.

7. **Term.** This relationship shall continue until either you or we give thirty (30) days written prior notice that the relationship will be terminated.

8. Disclaimers and Limitations.

- a. This license only covers use by your Authorized Staff. You or any Third Party that you engage may not modify, reverse engineer, disassemble, decompile or otherwise attempt to access or determine the source code of the Software, or copy, reproduce or distribute the Software in any way in whole or in part, or create any derivative work based on the Software. The Solution is proprietary to us, and you agree to keep these Terms and Conditions confidential, and to not disclose or demonstrate the Solution to any Third Party.
- b. The selection of the vendors and products within the Marketplace are at our sole discretion. All of the products, pricing and information within the Marketplace are provided by the vendors. We warrant neither the quality of the products nor the accuracy of their descriptions. Any issues regarding products, orders, delivery, payment, etc. must be settled by you with each vendor, just as you currently do with your existing vendors. We do our best to encourage vendors to offer 'best' prices within the Marketplace. However, we do not guarantee that lower prices are never available elsewhere. We are not responsible for the actions of the vendors, and you hereby release us and our directors, officers, employees and agents from any claims and damages connected with any claim that you may make against a vendor.
- c. The determination of your Authorized Staff, and the products approved for purchase, will be at your sole discretion. You will hold us harmless

for any outcomes arising from your purchasing decisions, including but not limited to any misuse of Your Data and the Analytic Products that we provide to you, and any misconduct by your staff.

- d. We do not represent that our servers are available and functioning properly at all times. For example, our servers may be periodically unavailable because of maintenance.
- e. TO THE EXTENT ALLOWED BY LAW, THE SOFTWARE AND ACCESS TO OUR SERVERS ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND, WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. WE SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, TITLE, ACCURACY OF INFORMATIONAL CONTENT, AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE IS ASSUMED BY YOU.
- f. EXCEPT TO THE EXTENT PROHIBITED BY LAW, IN NO EVENT WILL WE OR OUR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR SUPPLIERS BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER DAMAGES (INCLUDING FINANCIAL LOSS, LOST DATA, OR DOWNTIME COSTS) ARISING OUT OF USE, INABILITY TO USE, OR THE RESULTS OF USE OF THE SOFTWARE, OR PUBLICATION OF CONFIDENTIAL DATA WHETHER BASED IN WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY, AND WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR TOTAL FOR ANY CLAIMS UNDER THIS AGREEMENT IS LIMITED TO THE GREATER OF \$100 OR THE AMOUNT THAT YOU HAVE PAID US (IF APPLICABLE) FOR THE USE OF THE SOFTWARE DURING THE 12 MONTHS PRIOR TO THE DATE OF YOUR CLAIM.

9. **Governing Law.** These Terms and Conditions shall be governed by the law of the State of Iowa, without regard to its conflict of law principles. We and you both agree to the exclusive jurisdiction of the states and federal courts located in Iowa to resolve any claims between us.

Effective date: ____/____/____

Organization: _____

By _____

Print name, title

k-Purchase LLC

By _____

Paul Tarnoff, CEO