

## Purchased Equipment Agreement

**THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT (AS DEFINED BELOW) CREATE A CONTRACT BETWEEN YOUR LIBRARY AND THE ELECTRONIC INFORMATION NETWORK. PLEASE READ IT CAREFULLY. TO CONFIRM YOUR UNDERSTANDING AND ACCEPTANCE OF THIS AGREEMENT, CLICK "AGREE" ON THE PRECEDING ORDER PAGE.**

**EIN Contact:** Help Desk

**Telephone:** 412-622-3146

**E-mail:** helpdesk@einetwork.net

This Equipment Purchase Agreement ("Agreement") is made by and between The Electronic Information Network ("EIN"), a non-for-profit corporation organized under the laws of the Commonwealth of Pennsylvania, and the EIN Participating Library ("LIBRARY") placing the order for certain computer equipment described in Order Confirmation Email ("the Computer Equipment") through the EIN's on-line ordering system. The Agreement is effective on the date which LIBRARY places an order through EIN's online order system.

### **RECITALS:**

**WHEREAS**, EIN has entered into agreements with hardware manufacturers and various companies for the purchase and installation of computer systems, associated warranties, software, and licenses (collectively, "Supply Agreements") to facilitate the Library's efficient use of EIN's Core Services and to enable LIBRARY to leverage EIN's aggregate purchasing power for the purchase of the Computer Equipment; and

**WHEREAS**, through the Supply Agreements, EIN offers the opportunity to the LIBRARY for installation and use of the Computer Equipment, and receipt of support services from EIN regarding the Computer Equipment; and

**WHEREAS**, LIBRARY desires to purchase the Computer Equipment as detailed in the Order Confirmation Email associated with this agreement; and

**NOW, THEREFORE**, EIN AND LIBRARY, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, agree as follows:

### **1. Equipment Description.**

- A. Offered equipment is detailed in the on-line order (incorporated into, and made part of, this Agreement by this reference as if fully set forth herein); and includes multiple computer and monitor configurations. An Order Confirmation Email will be sent with the on-line order that includes in the email a link to this Agreement.
- B. All software necessary for use with standard EIN systems is also included. Non-standard EIN software purchased by the LIBRARY may be installed on the new computer systems providing that the license is transferable and the software is compatible with the Microsoft Operating System.
- C. The equipment includes the manufacturer's warranty. This hardware warranty includes maintenance on all PC internal parts, monitor, mouse, and keyboard. EIN Help Desk will coordinate all hardware support for Computer Equipment included in this agreement and covered under warranty.

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- D. LIBRARY understands and agrees that EIN is not a manufacturer's reseller of the Equipment and shall have no responsibility or liability with respect to any implied or express warranty of merchantability and fitness for a particular purpose. EIN HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PURCHASED EQUIPMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL OTHER WARRANTIES OF EIN, EXPRESSED OR IMPLIED, AND ALL REPRESENTATIONS, GUARANTEES, INSTRUCTIONS, PROMISES, DESCRIPTIONS AND SAMPLES FROM EIN PERTAINING TO QUALITY OF THE PURCHASED EQUIPMENT, CONDITION, CHARACTERISTICS, PERFORMANCE OR OTHER MATTERS, AND ALL WARRANTIES OF EIN WITH RESPECT TO ANY PATENT INFRINGEMENT INVOLVING THE GOODS ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. IN ADDITION, EIN SPECIFICALLY, AND NOT BY WAY OF LIMITATION, DOES NOT WARRANT THE ACCURACY OR SUFFICIENCY OF ANY ADVICE OR RECOMMENDATIONS GIVEN TO LIBRARY IN CONNECTION WITH THE PURCHASED EQUIPMENT.

### 2. Fees.

The LIBRARY agrees to pay EIN for Computer Equipment as detailed in the on-line Order Form (incorporated into, and made part of, this Agreement by this reference as if fully set forth herein).

Payments to EIN are within 30 days of receipt of invoice.

### 3. LIBRARY Responsibility.

LIBRARY further agrees to abide by all terms and conditions regarding the purchase, installation and use of the Purchased Equipment as follows:

- A. Title and risk of loss for the Purchased Equipment and all liabilities attendant thereto shall pass to LIBRARY upon equipment delivery to LIBRARY. LIBRARY shall inspect such Purchased Equipment immediately upon delivery. Claims for shortages or other errors must be made within ten (10) days from the date of receipt.
- B. The disposal of Purchased Equipment is the Library's responsibility and the Purchased Equipment may **not** be returned to EIN at the end of the current PC Program, which ends on June 30, 2020.
- C. The Computer Equipment is intended for use by LIBRARY's staff and patrons. LIBRARY shall not permit the use of the Computer Equipment by any third party other than LIBRARY's staff and patrons.

### 4. eiNetwork Support

- A. eiN will provide operating system and software support for all eiNetwork-managed software through June 30, 2020. This includes regular software, security, and operating system updates. Computer Equipment covered under this agreement will receive the updates on the Library's normal schedule unless notified otherwise.
- B. The eiNetwork Help Desk will coordinate all warranty-covered hardware support for equipment included in this agreement through June 30, 2020.
- C. At the end of the current PC Program cycle (June 30, 2020), eiNetwork will remove access to the network domain for the equipment and the library will be responsible for removing all eiNetwork standard software.

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- D. eiNetwork is not responsible for removal and disposal, or any hardware or software problems that occur after the termination of this agreement. Libraries that continue use of the purchased equipment do so at the Library's risk with no eiN support.

### **5. Term and Termination.**

The agreement will terminate on July 1, 2020 or on the scheduled date of the Library's PC Refresh whichever is earlier.

### **6. Assignment.**

The rights granted in this Agreement may not be assigned or transferred by LIBRARY without the prior written approval of EIN, which approval may be withheld in EIN's sole discretion. LIBRARY shall not be permitted to delegate its responsibilities or obligations hereunder without the prior written approval of EIN, which approval may be withheld in EIN's sole discretion.

### **7. Governing Law, Jurisdiction.**

This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the internal laws, and not the laws of conflicts, of the Commonwealth of Pennsylvania, USA.

Any legal action or proceeding relating to this Agreement shall be instituted in a state or federal court in Pittsburgh, PA or Allegheny County, Pennsylvania, USA. LIBRARY and EIN agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding.

### **8. Limitation of EIN's Liability.**

In no event shall EIN be liable for any special, indirect, incidental, consequential, or punitive damages. EIN's liability and LIBRARY's exclusive remedy for any cause of action arising in connection with this Agreement or the sale or use of the Purchased Equipment, whether based upon negligence, strict liability, breach of warranty, breach of contract or equitable principles, is expressly limited to, at EIN's option, replacement of, or repayment of the purchase price for the portion of the Purchased Equipment with respect to which damages are established. Notwithstanding anything to the contrary, EIN's maximum liability to LIBRARY pursuant to this Agreement, regardless of the theory on which any claim is based, shall not exceed the aggregate amount of the total purchase price LIBRARY paid to EIN pursuant to this Agreement.

### **9. General Terms.**

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

This Agreement (together with the Recitals and the attachments hereto, which are made a part of this Agreement by this reference as if fully set forth herein) constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning

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the subject matter of this Agreement. This Agreement may not be modified or amended except in writing and authorized by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

No failure or delay on the part of either party in the exercise of any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

Neither party shall be liable for failure to perform hereunder, except for LIBRARY's obligation to pay the amounts due to EIN, if the failure results from a cause beyond its control, including, without limitation, fire, electrical, mechanical, or equipment breakdowns, delays by third party vendors (such as, but not limited to, shipping delays attributable to the hardware manufacturer), civil disturbances or disorders, strikes, Acts of God or acts or omissions by the other party.