



777 Mariners Island Blvd., Suite 600
San Mateo, CA 94404
www.ixl.com

Memorandum of Understanding

10577

Date: **June 7, 2018**
Valid until: **June 28, 2018**
Rep: **Sabrina W.**

PURCHASER INFORMATION

Name: **Erika Bowles** School/Organization: **Ballyshannon Middle School**
Address: **7515 Shamrock Ave.** City: **Union** State: **KY** Zip: **41091**

PRODUCT DESCRIPTION

Quantity	Description	Unit Price	Total
1	3 Yr. IXL Math & ELA for 500 students		
	-First Installment (50%) <u>due now</u>	\$8,663	\$8,663
	-Second Installment (25%) due upon start of <u>second year</u>	\$4,331	\$4,331
	-Third Installment (25%) due upon start of <u>third year</u>	\$4,331	\$4,331
SUBTOTAL			\$17,325
TAX			
SHIPPING & HANDLING			
TOTAL			\$17,325

ACCEPTANCE OF TERMS

This is a binding agreement of payment between IXL Learning and the Purchaser. Your signature indicates that you have received, reviewed, and accepted the attached Terms and Conditions of Sale and that you agree to pay the full license price listed above within 60 days of the invoice date. Without a signature, your order may not be processed.

ACKNOWLEDGED AND AGREED TO:

AUTHORIZED SIGNATURE _____ DATE _____

Please contact IXL Learning with any questions regarding this Agreement:
Toll-free 1.855.255.8800 | Direct 1.650.372.4300 | E-mail orders@ixl.com

Please faxed to 1.650.372.4301 or e-mailed to orders@ixl.com.



TERMS AND CONDITIONS OF SALE

THIS IS A LEGAL DOCUMENT ("Memorandum of Understanding") BETWEEN THE PURCHASER SHOWN ABOVE ("YOU") AND IXL LEARNING ("SELLER"). PLEASE READ THIS AGREEMENT CAREFULLY. YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT, AS WELL AS BY THE WEBSITE TERMS OF SERVICE, WHICH ARE INCORPORATED BY REFERENCE. NO VARIATION OF THESE TERMS AND CONDITIONS ARE BINDING ON SELLER UNLESS AGREED TO IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF IXL LEARNING.

1. **PRICING:** The quoted purchase price of the license is valid through the "Price Valid Until" date on page 1. This price is not binding on IXL unless you have accepted it by sending us an executed Memorandum of Understanding by that date.
2. **PAYMENT:** Complete payment of the amount of the stated purchase price is due within sixty (60) days of the invoice date. If payment is not received by the Seller within 60 days, the invoice is considered past due. IXL licenses with past due payments will be put on hold and are subject to termination. Termination does not relieve the Purchaser of the obligation to pay fees due to the Seller.

The full invoice amount must be paid either by check or by credit card. We accept Visa, MasterCard, American Express, and Discover.

All checks should be mailed to:

IXL Learning
777 Mariners Island Blvd., Suite 600
San Mateo, CA 94404 (USA)

Credit card payments may be made by phone at (650) 372-4300.

Any late payment will incur interest at the rate of the lesser of 1% a month or the maximum permissible by law.

3. **CANCELLATION AND REFUND:** No cancellation will be accepted, and no refund issued, if it is more than thirty (30) days beyond the date of purchase for the license referenced in this Sales Contract. For cancellations and refunds of the license tendered under this Memorandum of Understanding to be accepted, the Seller must receive written notification of the cancellation within 30 days of purchase. Cancellations requested outside of the 30-day period will not be refunded, and the Purchaser will be responsible for completing the purchase as stated in the Sales Contract.
4. **LICENSES:** IXL grants you the right to provide access, through unique log-in IDs, to no more individuals than the quantity indicated on the first page. The terms and conditions of use for each of these individuals are governed by our website's Terms of Service. You agree to be responsible for their accounts, to monitor their use of their accounts, and to indemnify, defend and hold us harmless for any claims arising out of or related to their use of IXL Learning's website and services. To the extent that these individuals are minors, you consent to our collection of their personal information as described in our Privacy Policy.

Classroom and Site licenses will be activated immediately upon receipt of your payment unless another date is specified or agreed to by IXL. Activation confirmation will be sent to the e-mail address provided by the school or individual completing the purchase.

If an individual who has an IXL account through a Classroom or Site license purchased by you is no longer affiliated with you, you may request that we deactivate the individual's account, or no longer associate it with your license, so that that license can be reassigned to another individual associated with your institution.

If you are a teacher, you represent and warrant that you have permission and authorization from your school and/or district to use the Services as part of your curriculum, and for purposes of Children's Online Privacy Protection Act ("COPPA") compliance, you represent and warrant that you are entering into these Terms on behalf of your school and/or district.

5. **PRIVACY:** If you are a school, district, or teacher, you acknowledge and agree that you are responsible for complying with COPPA, meaning that you must obtain advance written consent from all parents or guardians whose children under 13 will be accessing the website and services and you represent and warrant that you have obtained that consent. When obtaining consent, you must provide parents and guardians with our Privacy Policy. You are to keep all consents on file and provide them to us if we request them.
6. **DISCLAIMER OF WARRANTIES. YOU EXPRESSLY UNDERSTAND AND AGREE THAT:**
- a. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED "AS IS," "AS AVAILABLE" AND WITH ALL FAULTS. IXL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
 - b. IXL MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR 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.
 - c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
 - d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM IXL OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.
- Some states do not allow certain limitations on warranties, so certain of the above limitations may not apply to you.**
7. **LIMITATION OF LIABILITY:** YOU EXPRESSLY UNDERSTAND AND AGREE THAT IXL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES RESULTING FROM THE USE OR INABILITY TO USE THIS SERVICE. IN ALL INSTANCES, DAMAGES SHALL BE CAPPED AT ONE MONTH'S FEES.
8. **SEVERABILITY:** If any provision of this agreement is deemed invalid, illegal, or unenforceable, then that provision shall be deemed severable from these terms and shall not affect the validity and enforceability of any remaining provisions of this Sales Contract, which shall remain in full force and effect.
9. **ARBITRATION:** You agree that any dispute or claim you may have against IXL arising out of or related to this Memorandum of Understanding or the use of Services must be submitted to arbitration, before a single arbitrator appointed by JAMS/Endispute and conducted according to their rules in San Francisco, CA, USA, and that the determination of any such arbitrator shall be binding. The courts located in San Francisco, CA, USA, have exclusive jurisdiction over any judicial proceedings related to this agreement, and you waive any claim that such a court is an improper venue, inconvenient or lacks jurisdiction over you.
- ALL CLAIMS MUST BE BROUGHT IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND IXL ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
10. **GOVERNING LAW:** The Memorandum of Understanding and the relationship between you and IXL are governed by the laws of the State of California without regard to conflict of law provisions.
11. **ENTIRE AGREEMENT:** This Memorandum of Understanding, which incorporates the Terms of Service by reference, is the final expression of the agreement between Purchaser and Seller and supersedes all prior representations, understandings, and

agreements between the Purchaser and Seller relating to its subject matter. This Memorandum of Understanding cannot be modified, amended, or changed except in writing and signed by IXL.