

**NEOMIN Internet Service Contract Number: NEO-IA-2023-BCKY-1Gb**

This agreement for Internet Access service (“Agreement”), effective **7/1/2023**, is made

BETWEEN:

NEOMIN - Northeast Ohio Management Information Network (“Provider”), whose main office is located at 528 Educational Highway, Warren, OH, and **Buckeye Local Schools** (hereinafter known as “Customer” and collectively with Provider, the “Parties”).

WHEREAS, Provider is a regional educational center organized by the State of Ohio pursuant to Section 3301.075 of the Ohio Revised Code to provide for the establishment of an Ohio educational computer network under procedures, guidelines, and specifications of the Department of Education, and;

WHEREAS, Customer is an educational entity in the State of Ohio, and;

WHEREAS, Provider wishes to provide Internet Access services (the “Service”) to the Customer subject to the terms and conditions of this Agreement.

NOW IT IS AGREED AS FOLLOWS:

## 1. DEFINITIONS

As used in this Agreement, the following terms shall be defined as follows:

“*Bandwidth*” shall mean a specific quantity of Internet capacity usually measured in Mbps (“MB”).

“*Bandwidth Service Provider*” shall mean the vendor sub-contracted by the Provider to provide transport for the contracted Bandwidth.

“*Dedicated Internet Access Provider*” shall mean the vendor sub-contracted by the Provider to provide dedicated Internet access for the contracted Internet Access Service.

“*Internet*” shall mean the publicly available worldwide system of interconnected computer networks that uses agreed upon technical standards based on the Internet Protocol (IP).

“*Internet Access Service*” shall mean the Provider’s basic conduit access to the Internet and for services that are an integral component part of basic conduit access.

“*Provider Network*” shall mean the broadband services network used by Provider to perform the Services.

“*Services*” shall mean all of the duties and ministrations pursuant to Section 2.

“*Service Equipment*” shall mean all Provider-owned equipment used to perform the Services.

"*User*" shall mean a school or person authorized by a school to make use of the Services purchased or secured by Customer from Provider by this Agreement.

## 2. THE SERVICES

In accordance with the provisions of this Agreement, Provider shall provide the Services as specified in Exhibit A and Schedule 1 for the Term of the Agreement.

Although Provider does not have a duty to monitor Customer or its Users' transmissions, it shall not be prohibited from so monitoring.

## 3. AGREEMENT TERM AND TERMINATION

This agreement shall be for the period beginning **7/1/2023** to **6/30/2028** (“Term”), subject to voluntary extensions. In the event that the Customer wishes to terminate the Service prior to the contract period end date, then Customer agrees to be responsible for the following charges:

- (a) The contracted annual amount in full for the balance of the current fiscal year (July 1 – June 30), less the amount already paid by Customer for such fiscal year.
- (b) Fifty percent (50%) for all remaining months and years of this Agreement.

The Services provided may be extended for up to 2 voluntary extension terms of 60 months each (each a “Renewal Term”), at Customer’s sole option, by written notice from the Customer prior to the expiration of the Initial Term or Renewal Term. Notwithstanding, the Customer may extend the Initial Term or any Renewal Term on a month-to-month basis, at Customer’s sole option, to facilitate the transition of services.

## 4. CHARGES AND PAYMENTS

Customer agrees to be solely responsible to Provider for all charges billed by Provider for Services provided to Customer under this Agreement, regardless of whether: (1) Customer fails to appropriate sufficient funds; or (2) E-rate funding is approved and/or received. Charges for the Services provided under this Agreement will be billed to Customer on a semi-annual basis. Provider purchases transport through a third-party Bandwidth Service Provider. The cost of transport from the Bandwidth Service Provider may vary and will be passed through directly to Customer.

Payment of all invoices for Services provided by Provider under this Agreement shall be due and payable within thirty (30) days of the mailing date on the Customer’s invoice. Provider may, at its sole discretion, terminate or suspend the Services to any Customer

whose payments are in arrears by more than sixty (60) days. Such suspension shall not be deemed a waiver of other legal or equitable rights the Provider may have for enforcement of payment. If the Provider suspends Services to Customer pursuant to this Section, Provider reserves the right to charge Customer a reconnection fee to cover the administrative cost of reconnection. The reconnection charge shall be in addition to any other amounts owed to Provider by Customer.

## LEVEL OF SERVICE

Provider will provide the Service as specified in Schedule 1 for an Uptime of 24-hour-per-day, 7-day-per-week less the period during which the Service is not available due to one or more of the following events (collectively, "Excusable Downtime" which is specifically excluded from any Uptime calculation):

- (a) Scheduled or routine testing or maintenance of the Service or any portion thereof;
- (b) The acts or omissions of Customer or Customer's employees, agents, contractors, vendors any other party gaining access to the Service by reason, directly or indirectly, of any act or omission by Customer;
- (c) A failure of the Internet and/or telecommunications networks;
- (d) Any actions taken by Provider believed to be reasonably necessary to preserve data of Customer or other Provider customer;
- (e) The occurrence of any event that is beyond Provider's reasonable control;
- (f) At Customer's direction, Provider restricting access to the Services;
- (g) A failure of Customer's data or systems to integrate with the Services.

If Provider fails to satisfy the Uptime Commitment stated above during a given year, then the Annual Charges for the following year shall be correspondingly reduced by the percentage of time that the Uptime commitment was not met for such preceding year, but under no circumstances shall such credit ever exceed the amount of annual fees otherwise then due. The forgoing credit shall be Customer's sole and exclusive remedy for Provider's failure to comply with its Uptime Commitment.

## 5. MAINTENANCE

Provider shall be responsible for the maintenance of the Provider Network and Service Equipment. Provider and its agents shall have the right at any time during normal business hours to enter Customer's premises (and complying with Customer's visitors policy) for the purpose of inspecting the Service Equipment or testing Services and shall

be given free access thereto and afforded necessary facilities for the purpose of inspecting and testing the Services and Service Equipment. Provider shall have the right to charge the Customer for its costs and expenses to identify or correct any failure caused by facilities and equipment not furnished by Provider or to repair damage or interruptions caused by the Customer or Customer's equipment.

## 6. FACILITIES AND EQUIPMENT

The Customer shall provide (i) clean and cleared space at the point of presence in its building as Provider may reasonably require for Service Equipment, which space shall be moisture-free and protected from water and have environmental conditions within the limits specified by the manufacturers of the Service Equipment, (ii) a separate, dedicated, appropriately fused AC power circuit meeting the limits as specified by the Service Equipment manufacturer for each power supply (the cost of electricity required for the Service Equipment shall be paid by the Customer as partial consideration for Provider's services provided hereunder), (iii) through, raceway, conduit or other cable enclosures for fiber optic lines in its buildings as required to meet the Occupational Safety Health Act, National Electrical Code, and all other pertinent local, state and federal regulations, (iv) space and facilities for installation activities in such condition so as not to be hazardous to the personnel hired by Provider for that purpose and their equipment and (v) reasonable security and protection for the Service Equipment on its property. The Customer shall assure items (i), (ii) and (iv) are effected at the Customer's sole cost before Service and Service Equipment are installed at the Sites and in accordance with the specifications provided by Provider.

## 7. TITLE AND OWNERSHIP

Title to the Service Equipment shall irrevocably and under all circumstances remain with Provider or its designee, and the Customer will protect Provider's rights, title and interest therein against all persons. The Customer's interest in the Services and Service Equipment is limited to possession and use thereof on the premises. At any time, Provider may affix to the Service Equipment, dry labels or other markings supplied by Provider identifying the Service Equipment as owned by Provider. Provider may cause this Agreement or any financing statement showing Provider's interest in the Services and Service Equipment to be filed and recorded to perfect its interest herein.

## 8. STANDARD OF SERVICE

Provider reserves the right to modify, change, add to or replace the Provider Network or the Service Equipment or any apparatus comprised therein. Any such modification, change, addition or replacement shall be carried out at Provider's own expense and Provider shall ensure it does not materially detract from, reduce or impair the overall performance or operation of Services, or require any material alteration to the Provider Network physical interface or protocol used by the Customer in using Services.

Provider further reserves the right to discontinue Customer's access to the Provider's Service and/or seek other legal or equitable relief for use of the Services that Provider

deems to be in violation of the rules and regulations of the Ohio State Board of Education or any other state or federal agency; or in violation of this Agreement; or state or federal law; or are uncivil. For purposes of this Agreement, uncivil conduct includes, but is not limited to: 1) transmitting offensive or harassing statements; 2) developing and/or transmitting offensive or unlawful graphics; 3) transmitting sexual or ethnic slurs explicitly or as part of a joke; 4) soliciting or encouraging others to engage in sexual, offensive or unlawful acts; or 5) permitting or encouraging unauthorized access to the Provider's network and public networks including unauthorized access to the Internet.

## 9. HAZARDOUS SUBSTANCES

Customer certifies that it is not aware of the presence of any asbestos or other hazardous substance (as defined by any applicable state, federal, local hazardous waste or environmental law or regulation) at any site where Provider is to perform services under this Agreement. If during such performance Provider employees or agents encounter any such substance, Customer agrees to take all necessary steps, at its own expense, to remove or contain the asbestos or other hazardous substance and to test the premise to ensure that exposure does not exceed the lowest exposure limit for the protection of the workers. Provider may suspend performance under this Agreement until the removal or containment has been completed and approved by the appropriate governmental agency and Provider. Performance obligations under this Agreement shall be extended for the delay caused by said clean up or removal. Customer's failure to remove or contain the hazardous substance shall entitle Provider to terminate this Agreement without further liability. If Provider so terminates, Customer shall reimburse Provider for expenses incurred in performing this Agreement until termination.

## 10. FORCE MAJEURE

Neither party shall be liable to the other for any loss or damage which may be suffered by the other party, or for any failure to perform its obligations under the Agreement to the extent that such damage or failure is due to any cause beyond the first party's reasonable control including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labor disturbance, the act or omission of Government, highway authorities, public telecommunications operators or other competent authority, war, military operations, or riot, difficulty, delay or failure in manufacture, production or supply by third parties of the Service Equipment or any part thereof.

## 11. LIMITATION OF LIABILITY

The following provisions and those in Clause 10 define Provider's entire liability (including any liability for the acts or omissions of its employees, agents, and subcontractors; subsequently referred to as the "Event of Default") with respect to claims arising in any way out of the provision of or failure to provide the Service set out in this Agreement; with respect to any breach of its contractual obligations arising under the Agreement; and any representations, statements, or tortuous act or omission including negligence or gross negligence arising under or in connection with this Agreement.

Provider shall not be liable, in respect of or arising out of an Event of Default or the performance, non-performance, or breach of its obligations under this Agreement, for any indirect, incidental, special or consequential damages, including loss of profits, goodwill, revenue, data, or use, incurred by Customer or by any third party whether in an action in contract or tort, even if such damages were foreseeable or Provider had been advised of the possibility of such damages. Provider, from time to time, will be requested to provide consultation related to service described within this Agreement. Provider will use reasonable efforts in this regard. Customer acknowledges and agrees that the limitation of liability shall apply to such consultation. Without derogating from the other provisions of this section and this Agreement, Provider's liability for damages for breach of this Agreement shall in no event exceed the amounts received by Provider under this agreement.

Customer understands and agrees that Provider shall have no responsibility for the accessing or transmitting of offensive or unlawful information by Customer or Customer's users, interference or unlawful access to others' information or networks, or other offensive or unlawful activity in which Provider's Service is used.

To the extent that Customer, either directly or through its agents, permits student access to the interconnected computer system(s) of the Internet through Provider's Services, Customer assumes full responsibility and agrees to hold Provider harmless for any and all access to and usage of information contained on the interconnected computer system(s) of the Internet.

## 12. WARRANTIES

Customer may only utilize the Services for educational activities and educational administrative related activities on its premises. Customer acknowledges that the Service may be through a shared Internet network to the extent permitted by law. Where the Services provided include access to the Internet, Provider does not warrant that the functions of the Internet will meet any specific Customer or user requirements, or that Services provided will be error-free or uninterrupted; nor shall Provider be liable for any actual damages or any indirect, incidental, special or consequential damages (including as a result of loss of data or misinformation) sustained in connection with the use, operation, or inability to use the Provider Services by Customer or its users. Customer understands and agrees that Provider will exercise no control over the information that Customer and users may transmit and access as a result of the provision of Services by Provider, other than security measures included in the standard configuration of Provider's Internet Access Service. Customer therefore will make no claim against Provider regarding the use of the Service, including transmission, downloading or uploading of information that is offensive, a violation of the law, or the actionable violation of others' rights. Customer is hereby under notice that some material contained in the Internet may be inappropriate for school aged pupils. Provider does not warrant the accuracy or appropriateness of any information contained in the interconnected systems.

### 13. INDEMNIFICATION

CUSTOMER AGREES TO INDEMNIFY AND HOLD PROVIDER, ITS GOVERNING BOARD MEMBERS, OFFICERS, MEMBERS, EMPLOYEES AND/OR AGENTS HARMLESS FROM ANY CLAIMS, SUITS, LIABILITY, LOSS, EXPENSES AND/OR DAMAGES, INCLUDING ALLEGED COPYRIGHT AND OTHER INTELLECTUAL PROPERTY CLAIMS, SUSTAINED BY ANY PERSON BY REASON OF ANY ACT OF CUSTOMER OR ITS USERS IN THEIR ACTIVITIES INVOLVING USE OF PROVIDER'S NETWORK.

### 14. INSOLVENCY

Either party may terminate this Agreement by notice, in writing, if the other party admits insolvency, makes assignment for the benefit of creditors, or has a trustee or receiver appointed over all or any substantial part of its assets.

### 15. CONFIDENTIALITY OF INFORMATION

- (a) (a) Provider shall exercise reasonable ordinary care in preserving and protecting the confidentiality of information and materials furnished by Customer.
- (b) Except as required by law, Provider agrees not to disclose any materials, information, or other data relating to Customer's operations, to other individuals, corporate entities, districts, or governmental agencies, without prior written consent from Customer.
- (c) Except as required by law, Customer agrees not to disclose any information or documentation obtained from Provider.

### 16. GENERAL TERMS

- (a) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the United States of America and the State of Ohio, without reference to conflict of laws principles.
- (b) Forum Selection. All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of the state and federal Ohio courts in Trumbull County and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts.
- (c) Partial Invalidity. If any provision in this Agreement shall be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, then the meaning of said provision shall be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement, which shall remain in full force and effect. In such event, the parties

shall negotiate, in good faith, a substitute, valid and enforceable provision which most nearly affects the parties' intent in entering into this Agreement.

- (d) Independent Contractors. The parties hereto are independent contractors. Nothing contained herein or done in pursuance of this Agreement shall constitute either party the agent of the other party for any purpose or in any sense whatsoever, or constitute the parties as partners or collaborators in joint ventures.
- (e) Modification. No alteration, amendment, waiver, cancellation or any other change in any term or condition of this Agreement shall be valid or binding on either party unless the same shall have been mutually assented to in writing by both parties.
- (f) Waiver. The failure of either party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the right of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.
- (g) Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that neither party shall assign any of its rights, obligations, or privileges (by operation of law or otherwise) hereunder without the prior written consent of the other party. Notwithstanding the foregoing, however, (i) Provider may assign this Agreement to an affiliate or a successor in interest (or its equivalent) of all or substantially all of its relevant assets, whether by sale, merger, or otherwise. Any attempted assignment in violation of this section shall be void.
- (h) Notices. Any notice required or permitted to be given by either party under this Agreement shall be in writing and shall be personally delivered or sent by commercial courier service (e.g., DHL), or by first class mail (certified or registered if available), or by telecopy confirmed by first class mail (registered or certified if available), to the other party at its address first set forth above, or such new address as may from time to time be supplied hereunder by the parties hereto. If mailed, notices will be deemed effective five (5) working days after deposit, postage prepaid, in the mail.
- (i) No Third Party Beneficiaries. Unless otherwise expressly provided, no provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity other than Provider and Customer any rights, remedies or other benefits under or by reason of this Agreement.



- (j) Compliance with Laws. Both Parties shall comply and instruct its agents and Affiliates to comply with all applicable laws and regulations applicable to its or their activities under this Agreement.
- (k) Government Approvals. Customer represents and warrants that no consent or approval with any governmental authority in the United States is required in connection with the valid execution and performance of this Agreement. Customer shall be responsible for any required filings of this Agreement with the government agencies.
- (l) Language. The English language shall govern the meaning and interpretation of this Agreement.
- (m) Currency. All dollar amounts specified herein are in U.S. dollars, and all payments pursuant to this Agreement shall be in U.S. dollars.
- (n) Entire Agreement. The terms and conditions herein contained, including all exhibits hereto (which are hereby incorporated by reference), constitute the entire agreement between the parties and supersede all previous agreements and understandings, whether oral or written, between the parties hereto with respect to the subject matter hereof. The terms and conditions of the Agreement shall automatically apply to each transaction between the parties contemplated by this Agreement notwithstanding any additional or different terms and conditions of any ordering document or other instrument, which terms and conditions shall be void and of no effect.

## **EXHIBIT A**

### **INTERNET ACCESS SERVICES**

This exhibit is hereby made part of the Internet Access Services Agreement (the "Agreement") entered between the Northeast Ohio Management Information Network ("Provider") and Customer, as these terms are defined in the Agreement. The following additional terms and conditions apply to the Agreement.

If for reasons beyond Provider's control, contracted Internet Access services defined herein are not ready for delivery at the start of this contract year, service and corresponding rates will be adjusted to deliver new or existing service, pro-rated on the monthly basis per Chart A of Schedule 1, including installation, at Customer cost.

Furthermore, the Customer may choose to upgrade services per the attached Chart B by providing a written request. Delivery of upgraded Service is anticipated no earlier than 30 business days after acceptance of the written upgrade request. Customer may not request service downgrades.

**1. Services**

The Services provided and their attendant costs are set forth on Schedule 1 and Charts A and B attached hereto and incorporated herein by reference.

**2. Installation Charges**

Customer agrees to pay Provider for installation costs associated with the provision of Services to Customer, as set forth on Schedule I attached hereto.

**3. Provider's Obligations**

- a) Provider will provide Internet Access Service as specified on Chart A to Schedule 1 and/or Chart B.
- b) Provider will install and set-up the Internet Access Service to the router and/or switch located in each building stated in Schedule 1 and/or Chart A.
- c) Provider will provide orientation of Customer's personnel regarding connecting to and activating the Service. At no time will Provider train Customer's personnel on the use of the Internet.
- d) Provider is not responsible for any systems, computers, devices or networks connected to the Provider's routing device.

**4. Customer's Obligations**

- a) Customer will assume all responsibilities for all systems, computers, devices, or networks connected to the Provider's routing device.
- b) Customer will provide surge suppression for all devices either directly or indirectly connected to the Internet access connection. The surge suppression must meet UL1449 rating.
- c) Customer will make its personnel and records available to the extent necessary to facilitate the planning, training, and installation of the Service.
- d) Customer will provide Provider with appropriate and sufficient space and electrical power to properly facilitate the Internet Access Service.
- e) Customer agrees not to connect any of its local area networks to alternative Internet service providers without Provider approval.
- f) Customer agrees not to resell any Service or Internet Access Service provided by Provider.

**SCHEDULE 1**  
**SUMMARY OF SERVICE/COSTS And SERVICE DESCRIPTION**

This exhibit is hereby made a part of the Agreement by and between Provider and Customer. Charges will be incurred for only those services for which a rate is shown and/or a charge is itemized. Services will be rendered for the period of the Agreement, unless otherwise stated below. Provider will render a minimum of level of basic conduit access to the Internet for the period of the Agreement as indicated in Chart A. Customer may seek increased support, via a written request to Provider, in accordance with Chart B. As a reminder, this Agreement is not contingent upon approval for E-rate funding.

| <b>Chart A</b><br><b>Service Type: Internet Access</b><br><b>Description: Internet Access and lit fiber transport for Buckeye Local Schools</b><br><b>Establishing Form 470 Number: 230019398</b> |                 |                     |                       |                           |                    |                          |
|---|-----------------|---------------------|-----------------------|---------------------------|--------------------|--------------------------|
| Location  | Transport Level | Monthly (Transport) | Internet Access Level | Monthly (Internet Access) | Annual (Transport) | Annual (Internet Access) |
| Edgewood Sr HS  | 1 Gb            | \$600.00            | 1 Gb                  | \$1,743.50                | \$7,200.00         | \$20,922.00              |
| Braden Jr HS  |                 | \$ .00              | 1 Gb                  | \$343.50                  |                    | \$4,122.00               |
| Kingsville ES   |                 | \$ .00              | 1 Gb                  | \$343.50                  |                    | \$4,122.00               |
| Ridgeview ES  |                 | \$ .00              | 1 Gb                  | \$343.50                  |                    | \$4,122.00               |
|   |                 |                     |                       |                           |                    |                          |
|   |                 |                     |                       |                           |                    |                          |
|   |                 |                     |                       |                           |                    |                          |
|   |                 |                     |                       |                           |                    |                          |
|   |                 |                     |                       |                           |                    |                          |
|   | Totals          | \$600.00            |                       | \$2,774.00                | \$7,200.00         | \$33,288.00              |
|   |                 |                     |                       |                           |                    |                          |
|   |                 |                     | District Monthly      | \$3,374.00                | District Annual    | \$40,488.00              |

**CHART B**  
**ADDITIONAL BANDWIDTH**

**Note to Chart B:** The cost of transport from the Bandwidth Service Provider and the cost of Internet access from the Dedicated Internet Access Provider may vary. Any changes to the transport cost and/or Internet access cost will be passed through directly to Customer. Per month costs below are based on a 60 month contract.

|                      |                            |
|----------------------|----------------------------|
| 2 Gb transport = ICB | 2 Gb internet access - ICB |
|                      |                            |
|                      |                            |
|                      |                            |

IN WITNESS WHEREOF, this agreement has been executed by the parties:

CUSTOMER:

\_\_\_\_\_  
*Printed name of Customer*

\_\_\_\_\_  
*Signature of Authorized Customer Representative*

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Printed name of Authorized Customer Representative / Title*

PROVIDER:

Northeast Ohio Management Information Network (NEOMIN)

3/8/2023

*Printed name of Provider*

Date

*Brian Greathouse*

\_\_\_\_\_  
*Signature of Authorized Provider Representative*

Brian Greathouse

\_\_\_\_\_  
*Printed name of Authorized Provider Representative*