

## **INTERNET SERVICE AGREEMENT**

This Internet Service Agreement (“Agreement”) is entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 2017, by and between the Northwest Tri-County Intermediate Unit No. 5, 252 Waterford Street, Edinboro, PA 16412 (hereinafter “IU-5”), and **Warren County School District**, (hereinafter “School District”).

**1. Purpose.** The IU-5 and School District require the use of affordable broadband services. As such, the IU-5 has contracted with a service provider for the provision of affordable broadband services for each of the school districts it serves. This Agreement sets forth the terms and conditions that govern the provision of said broadband services to School District.

### **2. Term and Termination.**

- a. This Agreement shall become effective on **7/1/2017** and terminate on **6/30/2020**.
- b. As rates for services are dependent upon the number of participating school districts and amount of bandwidth needed, the IU-5 and School District shall not terminate this Agreement in the middle of a school year. Further, School District may not terminate their participation in this Agreement for convenience.

**3. E-rate Program and Discount.** Funding for broadband services may be provided to eligible schools/school districts through the E-rates program. E-rate discounts applied to broadband services depend on the level of need of each school/school district. The E-rate discounts range from twenty (20) percent to ninety (90) percent of the costs of eligible services. E-rate program funding is based on demand up to an annual Commission-established cap. Therefore, funding cannot be guaranteed. However, if funding is awarded, the Universal Service Administrative Company, under the direction of the Federal Communications Commission, shall be responsible for reimbursing the service providers and eligible schools/school districts for the discounted services.

The IU-5 shall apply for E-rate funding for the benefit of all school districts it serves, including School District, as part of a consortium. The cost to School District to have the IU-5 file all necessary E-rates forms shall be **\$22.93** per month. See **Article 5** for applicable payment terms.

**4. Services.** Zito Business will provide (1) transport services and (2) internet bandwidth to the IU-5 and School District, collectively referred to as “broadband services.”

A total of 10 gigabit of bandwidth shall be purchased by the IU-5 for the school district for the 2017-2018 school year. The total megabits of bandwidth to be purchased by the IU-5 for the 2018-2019 and 2019-2020 school years shall be determined by the IU-5 based upon participation in and demand of the consortium.

Bandwidth may be upgraded during the school year if necessary. However, bandwidth purchased outside the timeframe provided for E-rate application filing will be billed at full price for the remainder of the E-rate funding year.

## **5. Price and Payment Terms.**

- a. Transport services will be provided at a cost of **\$526.25** per month.
- b. Internet bandwidth shall not exceed **\$1.25** per megabit per month. However, the cost per megabit may be reduced depending on the total bandwidth purchased by the consortium. Reduction to bandwidth size will be reflected by a corresponding reduction on the monthly invoice received by the School District.
- c. These prices set forth in Sections 5.a and 5.b do not reflect any E-rate discount. E-rate discounts, if awarded, will be reflected on **Addendum A**, attached hereto.
- d. The School District shall submit all payments required under this Agreement directly to the IU-5 within thirty (30) days of the date on the invoice. A late fee of five (5%) percent shall be applied to all payments not received within sixty (60) days of the invoice date. Payments will be deemed received on the date actually received by the IU-5.

**6. Pennsylvania Association of Intermediate Units (PAIU).** School District agrees to participate in PAIUnet to support the services provided by the IU-5 to School District. School District shall pay the membership/user fee of **\$25.00** per month to use PAIUnet. Refer to **Article 5** above for applicable payment terms. Participation in PAIUnet will be evaluated annually prior to the expiration of the E-rate filing period to determine whether continued participation is beneficial.

**7. Limitation of Liability.** The IU-5's liability under this Agreement for the failure to secure funding or discounts through E-rate shall be limited to any fees paid by School District to the IU-5 pursuant to this Agreement. In the event that the IU-5 is unable to secure E-rate funding or discounts, the School District may also request to terminate this Agreement and its obligations hereunder within thirty (30) days thereof. The IU shall not be liable for any errors, defects, limitations, or other malfunctions with, or caused by, the broadband services provided by Zito Business.

**8. Indemnification.** To the fullest extent permitted by law, the School District agrees to indemnify and defend the IU-5 from and against all claims, causes of action, losses, damages, and expenses (including reasonable attorney's fees), of any third party that arise from, or relate to, the actions, inactions, or omissions of the School District or the School District's employee, agent, or representative. The School District's obligations in accordance with this provision shall survive the termination of this Agreement. This provision shall not be construed to in any way

limit the School District's right to assert any defense, including immunity defenses or damage limitation defenses.

To the fullest extent permitted by law, and subject to the limitations of liability specified in Section 7 of this Agreement, the IU-5 agrees to indemnify and defend the School District from and against all claims, causes of action, losses, damages, and expenses (including reasonable attorney's fees), of any third party that arise from, or relate to, the actions, inactions, or omissions of the IU-5 or the IU-5's employee, agent, or representative. The IU-5's obligations in accordance with this provision shall survive the termination of this Agreement. This provision shall not be construed to in any way limit the IU-5's right to assert any defense, including immunity defenses or damage limitation defenses.

**9. Notice.** All notices and payments required under this Agreement shall be hand delivered or mailed to the address listed above for each party. Mailed notices shall be deemed received three (3) days after the date on which it was mailed.

**10. Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, without regard to its conflict of law provisions. The courts of the Commonwealth of Pennsylvania, situated in Erie County, shall have jurisdiction to hear any claims arising out of this Agreement.

**11. Integration and Modification.** The parties' understanding shall be limited to that which is contained in this Agreement, and any documents specifically referenced herein. Any and all changes, amendments, additions, or modifications to this Agreement, made in full or in part to any section, provision, sentence, or word shall be null and void if not in writing and signed by the parties hereto.

**12. Severability.** If any of the provisions of this Agreement are found to be void or unenforceable by a court of competent jurisdiction, all of the remaining provisions shall remain in full force and effect as if the void or unenforceable provision had never been included.

IN WITNESS WHEREOF, the undersigned parties, intending to be legally bound, have executed the within Agreement:

NORTHWEST TRI-COUNTY  
INTERMEDIATE UNIT 5

**Warren County School District**

By:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

## Addendum A

### Warren County School District

#### Breakdown of costs:

1. Transport	10 gigabit	<b>\$526.25</b>
2. Internet	two thousand megabits (2000) @ 1.25	<b>\$2,500.00</b>
3. E-Rate Filing		<b>\$22.93</b>
4. PAIUNet		<b>\$25.00</b>
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Total		<b>\$3,074.18</b>
E-Rate Eligible Amount		<b>\$3,026.25</b>
Expected E-Rate Percentage		<b>80</b>