

**BUCKEYE EXPRESS® HIGH-SPEED INTERNET SERVICE
COMMERCIAL SUBSCRIPTION AND SERVICE AGREEMENT**

This Commercial Subscription and Service Agreement is made between the Subscriber, and Buckeye TeleSystem, Inc. which derives its commercial Buckeye Express service from Buckeye Cablevision, Inc., (Buckeye), located at 5566 Southwyck Boulevard, Toledo, Ohio 43614-1578.

Subscriber hereby subscribes to the Buckeye Express High-Speed Internet Service ("the Service") under the following terms and conditions:

Service

1. Buckeye TeleSystem, as an authorized agent of Buckeye Cablevision, Inc., dba Buckeye CableSystem, ("Buckeye") will supply a high-speed connection to the Internet from a designated computer ("the Computer") located in the Subscriber's premises. The Service includes the outside and inside wiring to one high-speed outlet adjacent to the Computer; one high-speed cable modem; one network interface card for installation in the Computer; the connection between the cable modem and the network interface card. The Subscriber must provide web browser software. If the Computer already contains a suitable network interface card which is available for use, the installation charge is reduced.
2. The transfer speeds, e-mail services, and other components provided with each specific product offering are defined in a separate document entitled "Buckeye Express Product Definition", and on Buckeye TeleSystem's website (<http://www.buckeye-telesystem.com>), and are hereby incorporated by reference.
3. It is recommended that no more than seven (7) additional computers be connected to the Service via proxy or hub. If the connection is via hub, an additional monthly charge will apply for each IP address requested. Buckeye will install the cable modem connection to the first computer. The subscriber may connect the service to a wireless router, as long as a user must utilize a password to connect to the Service. The Subscriber is responsible for installing and configuring any proxy software or hub connections to the additional computers. The Subscriber is responsible for maintaining the multi-user connections. Buckeye does not provide software or support for multi-user environments.
4. If the Subscriber accepts third-party software programs made available by Buckeye and uses the programs in connection with the Service, the Subscriber must assent to the software license agreement of the software vendor. Buckeye provides such third-party software solely for the convenience of the Subscriber, and for an initial period only, on a one-time basis. If the Subscriber uses the software, the legal relationship governing such use is between the software vendor and the Subscriber. Buckeye does not provide support for third-party software programs. It is the Subscriber's responsibility to obtain support, updates, and upgrades directly from the software vendor. Charges may apply. Buckeye has no liability to the Subscriber or to anyone else for any claims relating to Subscriber's use of such third-party software.
5. The Subscriber may need to pay an installation fee and a monthly recurring charge for the Service in accordance with Buckeye's prevailing Schedule of Fees and Charges. Copies of Buckeye's [Schedule of Fees and Charges](#) are available from Buckeye upon request. The current Schedule may also be reviewed and printed from the Buckeye website located at 'http://www.buckeye-telesystem.com'. The Schedule of Fees and Charges is subject to change on reasonable notice. In addition, the Subscriber must pay all applicable federal, state and local fees or taxes.
6. Any installation fee(s) and the first monthly charge for Service may be required to be paid prior to the time of installation unless other credit arrangements have been made in advance

Installation

7. The Subscriber or its authorized representative must be present during installation and must provide Buckeye or its authorized representatives with access to the premises. When software is installed on the Computer, the system files may be modified. Buckeye does not warrant that the opening of the Computer or the installation of software will not disrupt the normal operations of the Computer or cause the loss of files. For these and other reasons, Buckeye recommends a complete backup be performed prior to installation. Buckeye and its authorized representatives have no liability for any damage resulting from the installation of the Service.

Billing and Payment

8. The subscription for the Service is billed monthly in advance. If the Subscriber also subscribes to other Buckeye services, billings for all services can be combined on one monthly bill. Unless contractually obligated, the Subscriber may terminate any Buckeye service at any time. If the subscriber terminates a contractual service before the contractual end date, all termination charges pursuant to the Master Services Retail agreement will be applied. Until the Service is terminated, the Subscriber must pay the service charges in full each month for all services. The Subscriber may not receive or attempt to receive any Buckeye service unless the service is the subject of a Subscription Agreement and the applicable charges have been paid.

Subscriber Responsibilities

9. The Service is provided for use on the Subscriber's internal Corporate Computer(s) connected via a hub or router. The Subscriber may not resell or redistribute access to the Service in any manner. It is strictly prohibited to allow users to access the Service (wired or wirelessly) from their residential premise. Each residential occupant must order and subscribe to a personal account of a residential level of Buckeye Express, unless previously approved by Buckeye. The Subscriber may not transfer the subscription or any rights and obligations under this Agreement to any other person or entity without the consent of Buckeye. Buckeye reserves the right to terminate the Service for failure to comply with this provision.
10. The Subscriber must provide Buckeye and its authorized representatives with reasonable access to the premises to install, inspect, repair, and maintain Buckeye's equipment.
11. The Subscriber must comply with the terms and conditions of the Buckeye Express™ [Acceptable Use Policy](#). Copies of the Acceptable Use Policy are available from Buckeye upon request. The Acceptable Use Policy may also be reviewed and printed from the Buckeye website located at '<http://www.buckeye-teleystem.com/bexacceptableuse>'. The Subscriber must ensure that each person who uses the Service complies with the Acceptable Use Policy.
12. The Internet contains material that many find objectionable. The Service is not intended to be used to enable persons under 18 years of age to obtain material that is prohibited by law to be sent or displayed, including material deemed to be indecent or obscene. The Subscriber assumes all responsibility for use of the Service by any person under 18 years of age and will provide appropriate supervision for any such use.
13. It is the Subscriber's responsibility to design and maintain any web pages. Web pages must not contain vulgarity; pornography; unlawful, threatening, abusive, profane information; information or software containing a virus, worm, or other harmful component; or information, software or other material which is protected by copyright or other proprietary rights, without obtaining permission of the copyright owner. Buckeye is not responsible for views and opinions which may be expressed on web pages. Buckeye has the right to terminate access to a web page or site upon a violation of this provision and to delete any and all directories and files that constitute or contain the site. Buckeye has the right to refuse to post or to remove from the site any web pages, files,

information, or materials that it determines, in its sole discretion, to be unacceptable, undesirable, or in violation of this provision. Buckeye also reserves the right to terminate this Agreement for violations of this provision.

14. The Subscriber is responsible for all Internet-based charges incurred through use of the Service. All such fees or charges for online services, products, or information are the Subscriber's sole responsibility and not the responsibility of Buckeye. The Subscriber is also solely responsible for protecting the security of credit card information and for all unwanted or unauthorized charges for Internet based transactions. Buckeye does not endorse or warranty any third party products, services, or content that are accessed through the Service.
15. At the Subscriber's request, Buckeye will move the cable modem to a new location for a service charge based upon Buckeye's then-existing published rates for such services. At least five (5) business days advance notice must be provided to Buckeye. If the Subscriber moves the Computer and cable modem without assistance from Buckeye, any new wiring or equipment must meet minimum specifications set by Buckeye. Buckeye has no obligation to repair or maintain wiring or equipment not provided and installed by Buckeye.
16. The Subscriber is responsible for preserving the integrity of Buckeye's property and is not authorized to tamper with, attempt to repair, or alter any property of Buckeye. The Subscriber must not attach any electric, electronic, or other device that permits or assists in obtaining services in violation of the Agreement. In addition to this Agreement, federal and state law prohibit the possession, use, or attempted use of any equipment to receive any Buckeye services except as expressly provided by this Agreement. The Subscriber is responsible for the actions of other persons in violation of this paragraph and for all costs incurred by Buckeye arising from a violation of this paragraph.
17. If third-party software programs are made available by for use in connection with the Service, the subscriber must assent to the software license agreement of the software vendor. Buckeye provides such third-party software solely for the convenience of the subscriber, and for an initial period only on a one-time basis. If the subscriber requests, accepts, and uses the software, the legal relationship governing use of the software is between the software vendor and the subscriber. Buckeye does not provide support for third-party software programs. It is the subscriber's responsibility to obtain support, updates, and upgrades directly from the software vendor. Charges may apply. Buckeye will have no liability to the subscriber or to anyone else for any claims relating to the subscriber's use of such third-party software.
18. Subscriber may not attempt to modify the Buckeye Express products and services in any manner (for example altering the speeds at which my cable modem operates), or attempt to circumvent controls on any aspect of this service (for example exceeding the limit on the allowed traffic to and from newsgroup services provided by Buckeye, or the sending of an excessively high volume of e-mail messages). Such activity may cause degradation in the service for other Buckeye Express customers, or harm to Buckeye's network infrastructure, and may constitute a crime. Subscriber is responsible for all costs and damages, including attorney's fees, resulting from a breach of this provision.

Support and Maintenance

19. Telephone support and on-site service are limited to the equipment, software, and line connection supplied by Buckeye. Buckeye is not obligated to repair equipment or software that Buckeye did not supply. The subscriber is not authorized to reconfigure, alter, tamper with, or attempt to repair the equipment, software or line connection supplied by Buckeye. Buckeye is not obligated to repair equipment, software or line connections that have been reconfigured or altered from their original installed configuration. Beginning thirty days after installation, a service charge will apply on a per-incident basis for on-site service unless the service is required to correct a problem with Buckeye's equipment, software or line connection as originally installed. Buckeye does not support multi-user connections (LAN connections and associated hardware or software).

Termination

20. For any non-contractual service, the Subscriber may terminate this agreement by providing at least one (1) day's advance notice, including the effective date of termination. For any contractual service that is terminated before the full term is reached, any applicable termination charges will become immediately due pursuant to the Retail Master Service Agreement. In either case, the Subscriber must either (a) return the Buckeye Express cable modem to a Buckeye customer service location within five (5) business days of termination, or (b) notify Buckeye and provide reasonable access to the premises to enable Buckeye or its authorized representatives to pick up the cable modem. Buckeye's failure to pick up the cable modem after termination is not abandonment of the equipment and the Subscriber remains obligated to return the cable modem to Buckeye. If the cable modem is not returned within five (5) business days of termination for any reason (including theft or destruction), the Subscriber must pay liquidated damages of One Hundred Fifty Dollars (\$150) for each cable modem not returned.
21. The cable and other non-electrical equipment installed on the premises between the pole, pedestal and ground block is the property of Buckeye unless abandoned according to law. The cable and other non-electrical equipment installed between the ground block and the Computer becomes a fixture on the property and will remain there upon termination of the Service unless removal is requested, in which case a removal charge will apply.
22. Upon termination of this Agreement, Buckeye is authorized to delete any files, programs, data, email messages and other materials associated with the account.
23. Buckeye may terminate the Agreement and Service immediately upon a violation of this Agreement, or the provisions of the [Acceptable Use Policy](#) established by Buckeye.

Subscriber's Warranties and Representations

24. The Subscriber agrees and warrants that he or she is at least 18 years of age and is legally authorized to enter into this Agreement as the Subscriber, or on behalf of the Subscriber.

25. The Subscriber warrants that it is legally empowered, either by ownership or by consent, whether express or implied, to authorize Buckeye and its authorized representatives to enter upon the property where the Computer is located for the purpose of (a) placing Buckeye Express™ cable modem transmission lines in the utility easement on that property, including, if necessary an above ground pedestal in the easement, (b) attaching wiring and equipment to the structure, and (c) installing a cable modem and network interface card in the Computer. The Subscriber must indemnify Buckeye from any claim brought against Buckeye if this warranty is breached, or if Buckeye's entry upon or into the property is unauthorized or illegal.
26. The Subscriber acknowledges receipt of the cable modem and the network card, if required, and that the Service is functioning properly on the Computer.

Buckeye Limited Warranty, Warranty Disclaimers and Limitation of Liability

27. If Buckeye supplies a network interface card, Buckeye warrants that the network interface card will be free from defects in materials and workmanship for a period of one (1) year from installation. During the limited warranty period, the network interface card will be repaired or replaced at Buckeye's option, without charge for either parts or labor. This limited warranty does not apply if the network interface card is modified, tampered with, misused, or subjected to abnormal working conditions (including, but not limited to excessive force or impact, electrical shock, lightning, magnetic field, static discharge and water damage). Repair or replacement as provided under this limited warranty is the sole and exclusive remedy.
28. Buckeye and its authorized representatives are not responsible in any way for any damage to the Computer or to any of the Subscriber's software, files, data, or peripherals that may result from the installation, use, maintenance, or removal of the Service or equipment, except for instances of gross negligence on the part of Buckeye. In no event will Buckeye's liability exceed the amount paid under this Agreement, or \$2,500.00, whichever is less.
29. BUCKEYE EXPRESS HIGH-SPEED INTERNET SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. NO STATEMENT, ADVICE, OR INFORMATION GIVEN BY BUCKEYE, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED REPRESENTATIVES, AFFILIATES OR CONTRACTORS, OR THEIR RESPECTIVE EMPLOYEES, CREATES A WARRANTY. NEITHER BUCKEYE NOR ITS AFFILIATES WARRANTS THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE.
30. IN NO EVENT SHALL BUCKEYE OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DIRECT, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR CHARACTER, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY, BUSINESS INTERRUPTION, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, LOSS OF INFORMATION OR DATA OR USE THEREOF, DAMAGE TO EQUIPMENT OR SURROUNDINGS, OR THAT ARISE FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, OR ANY CLAIMS BY ANY THIRD PERSON, EVEN IF BUCKEYE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THIS LIMITED WARRANTY GIVES THE SUBSCRIBER SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHERS, WHICH VARY FROM STATE TO STATE. BECAUSE SOME STATES/JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

31. Because the Internet is a shared resource, Buckeye cannot and does not warrant the security of any information on the Computer, or on any additional computers connected via proxy or hub, or the security or accuracy of any information or data transmitted or received through the Service. Buckeye has no liability for unauthorized access by third persons to the Computer or additional connected computers, files, or data. Buckeye does not warrant that any data or files will be transmitted or received in uncorrupted form or within a reasonable period of time.
32. Buckeye and its authorized representatives make no representation or warranty that any software installed on the Computer or additional connected computers or that are downloaded from the Internet, on-line service provider, or other information provider does not contain any virus or other damaging or destructive attribute. Buckeye and its authorized representatives have no responsibility and assume no liability for such acts or occurrences.
33. The Subscriber must defend, indemnify and hold Buckeye and its officers, employees, and agents harmless from any and all liabilities, costs and expenses, including reasonable attorneys' fees, related to or arising from: (a) any violation of Buckeye policies or procedures or this Agreement; (b) use of the Service or the placement or transmission of any message, information, software or other materials through the Services; and (c) claims for infringement of patents, copyrights, or other intellectual property rights, or breach of contract or any other claim arising from the use of the Service.
34. Buckeye uses reasonable network management techniques to improve overall network performance and reserves the right to employ additional techniques as necessary or desirable. Some applications, including certain peer-to-peer applications, can consume inordinately high amounts of bandwidth on the network and degrade network performance. Buckeye's current network management techniques include:
 - **Speed Caps** - limiting the speeds that a modem can transmit or receive data. Buckeye may lower the transmission rate or reception rate of high bandwidth users during times of high network demand. This may slow the transmission or reception rate for affected modems.
 - **Connection Limits** – limiting the number of simultaneous connections for any modem during an online session. With a typical user having a dozen or so simultaneous connections for routine use, this limit provides a means of identifying and hopefully thwarting malicious attempts to harm the network or other users. This limit is currently set well above the number of connections used by typical user in a session.
 - **Application-based Rate Limiting**– limiting transmission speed of certain high bandwidth applications. Some applications, typically peer-to-peer applications, can consume large amounts of bandwidth, often without the knowledge of the user/customer. By limiting the portion of the network capacity available for these applications during periods of high traffic, Buckeye is able to improve the overall performance of the network for all users. Transmission of traffic subject to this technique may be slower during periods of high network usage.

Buckeye routinely monitors its network and traffic patterns and makes changes as it deems necessary to manage and improve overall network performance.

By subscribing to the Service, you agree that your use of the Service is subject to Buckeye's network management practices.

35. The Service may incorporate software that responds to incorrect or non-existent domain names entered into a browser address bar. The software will direct the Subscriber to a page selected by Buckeye, which may offer similar search results and additional destination options generated by the software, and advertising or other information selected by Buckeye.
36. Buckeye reserves the right to seek and obtain reimbursement from the Subscriber for any damage or injury to the Buckeye system, or to Buckeye's business, whether temporary or permanent, that is caused by the Subscriber, or

by persons using the Subscriber's connection. Violations of the law will be referred to the appropriate authorities

37. Buckeye has no responsibility for, and is not liable for, the speed, content, or accuracy of any transmissions on the system. All Buckeye obligations hereunder are subject to acts of God, the elements, flood, fire, explosion, other casualty strikes, walkouts, other labor difficulties, injunctions, accidents, breakage, breakdown of machinery or apparatus, bandwidth contention, the necessity for repairs, replacements, improvements, alterations, or additions, inability to obtain services or supplies at the normal costs from normal sources, riot, war, governmental regulation, or any other cause beyond Buckeye's reasonable control. Buckeye is not liable to the Subscriber or to anyone else for any of the foregoing. The sole and exclusive remedy for any breach of this Agreement by Buckeye is the termination of this Agreement.
38. No representation, warranty, term, or condition other than as specifically set forth in this agreement is binding on Buckeye.

General Provisions

39. The provisions contained in the attached sections entitled TERMS OF PAYMENT and BILLING DISPUTES are part of this Agreement.
40. Failure by Buckeye to enforce any provision of this Agreement in one circumstance shall not be construed as a waiver of the right to enforce the provision in any other circumstance. If any part of this Agreement is found to be invalid or unenforceable, the remaining provisions are unaffected.
41. This Agreement may be modified by Buckeye upon reasonable notice, including general notices provided to Subscribers on-line. If the Subscriber does not agree with any such modification, the Subscriber may terminate this Agreement. The Subscriber must pay all amounts due under the Agreement up to the effective date of the termination.

This Agreement may not be assigned without the written consent of Buckeye. This Agreement is governed by, and construed in accordance with, the laws of the state of Ohio. Proper venue for any action brought under this Agreement is Lucas County, Ohio and the parties expressly consent to exercise of personal jurisdiction in said courts.

NOTE: If you subscribe to Buckeye's cable television service, that relationship is subject to a separate service and subscription agreement which remains fully in effect.

TERMS OF PAYMENT AND BILLING INQUIRIES

1. All payments are due in full on the due date of the monthly bill. Buckeye may add a late charge for any payment not timely made. Failure to pay all charges shown on the bill in full each month is grounds for termination of services.
2. If the Subscriber discontinues the Service or the Service is disconnected, any balances, termination charges and/or a reconnect charge must be paid before reconnection.
3. Any "prepayment" made at the time of installation that is not considered a deposit, will be construed as a prepayment of the first billing(s) for services. After such prepayment has been fully applied, the full amount of all monthly billings must be paid each month. If the Service is terminated before the prepayment is fully applied, the balance will be returned. If a deposit was required for installation of service, such deposit will be held for a period of at least 6 (six) months. In the event of a Subscriber payment default, any proceeds remaining from the deposit will be applied against the past due bill. Once 6 (six) months of on-time payment activity has past, Subscriber must contact Buckeye to receive a refund of the deposit paid.
4. The Subscriber is also responsible for all expenses (including reasonable attorney's fees) incurred by Buckeye in collecting any unpaid amounts due in accordance with this agreement.

BILLING DISPUTES

Buckeye makes every effort to bill its Subscribers correctly, but it recognizes that billing errors do occur. The Subscriber may call regarding a billing error and Buckeye will make every effort to resolve the dispute, but phoning will not provide the safeguards under these procedures. Billing disputes are simple to resolve if the following procedures are followed:

1. The Subscriber must write to Buckeye. The correspondence must be received within 60 days after the billing date on which the disputed charges were billed. The letter should be sent to: Buckeye TeleSystem, Inc., Attn Business Relations/Billing Inquiries, 4818 Angola Road., Toledo, Ohio 43615. The following information must be provided: Subscriber name, account number, date, amount of the disputed charges and explanation of why the charges are disputed. The letter should not be put in the same envelope as a payment.
2. Buckeye will acknowledge the letter, in writing, within 30 days after it is received unless the problem has been resolved within that time.
3. Buckeye will conduct a reasonable investigation and within no more than 90 days, either explain why the bill is correct or correct the error. If the bill is correct, Buckeye will include documents showing that the charges were correct.
4. The Subscriber may withhold payment for the amount of the disputed charges only. Buckeye will not disconnect the Service as long as the undisputed charges are kept current. If the Subscriber continues to have problems with the disputed charges, the Subscriber may seek legal advice or contact a consumer protection agency.