**BLACKBOARD® REST DEVELOPER AGREEMENT**

This Blackboard REST Developer Agreement (“**Agreement**”) enables the development and testing of software applications designed to interoperate with designated Blackboard applications.

By clicking “I agree” or otherwise indicating your agreement as part of an online process, the terms contained in this Agreement form the entire agreement between the Developer and Blackboard Inc. (“Blackboard”) with respect to: (a) the development of Developer Applications through the use of Blackboard’s REST APIs and Documentation; and (b) the use of a DVBA to test the interoperability of the Developer Applications therewith. You represent that you have the authority to bind the Developer to the terms of this Agreement and that you and Developer will comply with the terms and conditions hereof. All rights and privileges granted under this Agreement are contingent upon Developer’s agreement to the terms and conditions hereof.

1. **DEFINITIONS.** 
   1. **“APIs”** means Blackboard’s REST-based application program interfaces which are made available by Blackboard to facilitate the development of Developer Applications, as such APIs may (without obligation) be updated by Blackboard from time to time.
   2. **“Blackboard Application”** means a software solution of Blackboard that can be made interoperable with Developer Applications through the use of the APIs and Documentation. A Blackboard Application also includes: (a) any associated product documentation or materials that Blackboard may, in its sole discretion, provide; and (b) any Upgrades.
   3. **“Developer”** means the individual or company or other legal entity on whose behalf you enter into this Agreement and which intends to develop Developer Applications in accordance herewith.
   4. **“Developer Application”** means a software application created by Developer that is intended to use the APIs. In no event shall a Developer Application include any intellectual property from a DVBA.
   5. **“Developer Version of a Blackboard Application” or “DVBA”** means a version of a Blackboard Application which contains quotas, rate limits, bandwidth limits and/or other usage or technical limits which are designed to limit Developer’s use of the Blackboard Application for non-production testing purposes only.
   6. **“Documentation”** means Blackboard’s REST Developer user guides, sample code and related materials which are made available to Developers, as such Documentation may (without obligation) be updated from time to time by Blackboard.
   7. **“Portal”** means the area of the Blackboard corporate website from which Developers can obtain rights of use to the APIs, Documentation and DVBA for the purposes described hereunder.
   8. **“Term”** shall have the meaning prescribed in Section 7 below.
   9. **“Upgrade”** means the object code versions of a DVBA that has been enhanced or otherwise modified by or on behalf of Blackboard, acting in its sole discretion, to include additional functionality or code changes. Blackboard shall determine, in its sole discretion and without obligation, whether to develop or make available any Upgrades for use by Developer.
2. **REGISTRATION**
   1. In order to be provided access to the APIs, Documentation, and a DVBA, Developer is required to register with Blackboard by providing certain information as directed in the Portal. Registration information shall include, without limitation, Developer’s contact information, a password and related login information for accessing Developer’s account, information identifying and describing the Developer Application, and such other information as may be requested by Blackboard. Developer agrees to provide all requested registration information and covenants that such information shall be accurate and kept up to date.
   2. Upon acceptance of Developer’s registration, Blackboard will provide Developer with certain keys and/or passwords which may be used by Developer in order to access and use the APIs, Documentation, and DVBAs, which access and use shall be in accordance with the terms and conditions of this Agreement.
   3. Developer’s registration with Blackboard, and the associated provision of access by Blackboard to the APIS, Documentation and DVBAs, shall in no event be deemed to be, or promoted by Developer as, an endorsement or certification by Blackboard of the Developer or of the compatibility or operation of any Developer Application.
3. **USE OF THE APIS, DOCUMENTATION AND DVBAS**
   1. Subject to the terms and conditions of this Agreement and for the Term hereof, Blackboard grants to Developer a non-exclusive, non-transferable, limited license to access and use the APIs and Documentation for the sole purpose of developing Developer Applications which are designed to interoperate with Blackboard Applications.
   2. Subject to the terms and conditions of this Agreement, if and to the extent Blackboard makes available to Developer a DVBA which is downloadable to a device in Developer’s computing environment, Blackboard grants to Developer a non-exclusive, non-transferable, limited license to download and install a single, object-code copy of the DVBA, but: (a) for use only as a component of the Developer’s non-production development environment; and (b) solely for the purpose of testing the interoperability of the Developer Application with a DVBA in such non-production development environment by making requests from the Developer Application, in accordance with the APIs and Documentation, which are designed to enable the exchange of data between the applications.
   3. Subject to the terms and conditions of this Agreement, if and to the extent that Blackboard makes available to Developer a Blackboard-hosted Software-as-a-Service (“SaaS”) version of a DVBA, Blackboard grants to Developer a non-exclusive, non-transferable, limited license to access the DVBA on a remote access basis over the Internet solely for the purpose of testing the interoperability of the Developer Application with the DVBA in a non-production development environment by making requests from the Developer Application, in accordance with the APIs and Documentation, which are designed to enable the exchange of data between the applications.
   4. The DVBA will include usage and other limitations in order to ensure that Developer makes use of such Blackboard Application only for development and testing purposes. In this regard, unless stated otherwise on the Portal, Developer shall be limited to use of the DVBA for no more than 150 users, 100 courses and 1,000 enrollment records. In addition, Developer shall be provided with “testing level” usage limits (such as quotas, bandwidth limits and/or rate limits) in connection with its use of the DVBAs. Such limitations will be as designated or applied by Blackboard in its sole discretion. Additional usage, technical, licensing or other limitations may be applied by Blackboard in its sole discretion. Developer is solely responsible for testing the Developer Application, for determining whether it is interoperable with a DVBA and thus a Blackboard Application, and for abiding by all applicable limitations and restrictions.
   5. Developer may promote and market a Developer Application to potential customers by using the Blackboard logo and applicable Blackboard trademarks, but only to state that the Developer Applications are “designed for Blackboard” or to make such other similar statements which are approved in advance in writing by Blackboard and which indicate that the Developer Applications are designed to be compatible with the applicable Blackboard Applications. Notwithstanding the above, Developer shall make no representation indicating that Blackboard endorses, supports or makes any commitment regarding the interoperability of the Developer Application with any Blackboard Application. Developer may not use the name “Blackboard” or any other trademark of Blackboard in the name of any of its Developer Applications. Developer shall comply with Blackboard’s trademark policies. Blackboard may require Developer to discontinue use of Blackboard trademarks upon written notice. Developer understands and agrees that it is solely responsible and liable for its promotion and marketing activities and that it may not operate, distribute, or deploy a Developer Application, including to interact with a Blackboard Application other than a DVBA, to a customer unless and until it enters into the separate agreement described in Section 6 below.
   6. Developer shall only use the APIs and Documentation in accordance with the associated Blackboard guidance and instructions described therein or on the Portal. Developer shall only access the DVBAs for the limited purposes described herein and in accordance with any documentation or materials made available by Blackboard with respect to the use or operation thereof.
   7. Except as expressly permitted in the Agreement, Developer may not: (a) disclose, distribute (including by uploading to web sites, electronic bulletin boards or on or through any other method or media), display, sublicense, sell, or transfer any rights in the APIs, the Documentation or any DVBA (collectively, the “Blackboard Property”), in whole or in part, to any third party; (b) use the Blackboard Property, in whole or in part, for service bureau or outsourcing use or otherwise for the use or benefit of any third party; (c) exceed applicable usage, technical, licensing or other limitations which are set forth in this Agreement, in any materials or documentation provided by Blackboard or as may be separately imposed by Blackboard; (d) copy, modify, alter, or create derivative works of, or otherwise use for any purpose other than the purpose expressly authorized hereunder, the Blackboard Property; (e) use the Blackboard Property to create any product or service similar to any Blackboard Property or Blackboard Application, or otherwise exploit or commercialize the Blackboard Property; (f) gain or seek to gain access to any DVBA or Blackboard Application other than through the APIs as contemplated herein; (g) reverse engineer, disassemble, decrypt or decompile the APIs or any DVBA or Blackboard Application, or otherwise make any attempt to access or discover the source code thereof, or interfere with or disrupt the APIs, DVBAs, or Blackboard Applications or any servers or networks through which they are provided; (h) permit any third party to access or use the Blackboard Property, or to resell, distribute or otherwise use or exercise any rights with respect thereto; (i) disable any “auto reporting option” or similar reporting capability in any DVBA; or (j) provide any services or support to any third party regarding, or in connection with, any Blackboard Property.
   8. A DVBA may utilize or include third party software or content (“Third Party Software”). To the extent necessary to use the applicable DVBA, Blackboard grants Developer a license to use such Third Party Software solely on the same terms and conditions (including all limitations and restrictions) as Developer is authorized to use the DVBA hereunder. However, Blackboard reserves the right to change, suspend or discontinue Developer’s rights of use in Third Party Software to the extent required by an applicable third party licensor or supplier or the terms of Blackboard’s agreement therewith.
   9. Blackboard may determine, in its sole discretion and without obligation, whether to make available any DVBA, and associated APIs and Documentation, for the purposes contemplated hereunder.
   10. All rights not expressly granted to Developer are reserved by Blackboard.
4. **BLACKBOARD OBLIGATIONS**
   1. Subject to the terms and conditions of this Agreement, Blackboard will provide Developer with: (a) access to the APIs and Documentation; and (b) access to the DVBA(s), in each case for Developer’s use in connection with the development of Developer Applications as contemplated hereunder.
   2. From time to time, in its sole discretion and without obligation to do so, Blackboard may elect to provide certain limited technical support to Developers. Any such support shall be as described in the relevant “Developer Support” or similar areas of the Portal, and may be modified, reduced, cancelled or updated at any time upon written notice provided by Blackboard in the Portal or otherwise. Any and all support will be subject to the terms and conditions set forth in the Portal, and may require payment of fees as described therein. Blackboard may also make support available separately through other programs or offerings from time, and such support would be subject to the separate terms and conditions associated therewith.
5. **DEVELOPER’S OBLIGATIONS**
   1. Developer shall develop each Developer Application in compliance with the then-current version of the APIs and Documentation and, accordingly, shall ensure that each Developer Application enables and maintains interoperability with the applicable DVBA and Blackboard Application.
   2. Developer shall be solely responsible for each Developer Application, including all support, development, hosting, and maintenance thereof and its interoperability with any Blackboard Application. Accordingly, Developer shall be solely responsible and liable (including to its customers and other parties) for all matters regarding the Developer Applications, including their development, operation, performance, availability, interoperability, support, and hosting.

* 1. Developer shall use security best practices in connection with the development of the Developer Application and will comply at all times with all applicable privacy and data security laws and regulations and all security requirements of Blackboard made available on the Portal or otherwise. Developer will implement security measures adequate to preserve the confidentiality and security of all data which is processed, stored, transmitted or handled by Developer or any Developer Application.
  2. Developer grants Blackboard the right to copy, display and otherwise use the registration information and materials provided by Developer for the purposes contemplated in the Agreement. In addition, Blackboard shall have the right (but not the obligation) to use the registration information provided by Developer in order to contact Developer to inquire as to Developer’s interest in discussing a partner relationship with Blackboard (including, by way of example and at Blackboard’s sole discretion, a relationship under which Developer may be granted deployment rights as described in Section 6 below). Neither party would have any obligations in connection with any such partner relationship unless and until the parties enter into a separate agreement (or an amendment hereto) which documents the terms and conditions of the relationship. In addition, Developer grants Blackboard the right to use Developer’s name, logo and applicable trademarks, in promotional materials and otherwise in order to promote, market and/or otherwise identify Developer as a registered developer of REST applications which are designed to interoperate with Blackboard Applications.
  3. Developer shall not share or expose the Developer Application Key/Secret pair. Application Key/Secret pairs shall only be held in the Developer Application code. Similarly the Developer Application must never expose the Developer Application OAuth Token. Exposing the Developer Application Key/Secret pair, or the OAuth Token will create a serious security risk. If Developer believes he/she has exposed an Application Key/Secret pair the Developer may request a new pair for the Developer Application using the Developer Portal My Applications management page. Blackboard shall in no way be responsible for lost or exposed data resulting from unapproved or inappropriate use of REST Application Key/Secret pairs or OAuth Tokens.

1. **DISTRIBUTION AND DEPLOYMENT OF DEVELOPER APPLICATIONS**

The purpose of this Agreement is to enable Developer to gain access to the APIs, Documentation and DVBA(s) in order to develop Developer Applications and conduct non-production testing of the interoperability of such Developer Applications with the associated Blackboard Application(s). Developer is not authorized under this Agreement to, and warrants that it shall not: (a) operate, deploy, or distribute a Developer Application for access or use by Developer’s customers or any third party, or (b) use the APIs other than to facilitate interaction of a Developer Application with the applicable DVBAs. In order to so operate, deploy, or distribute any Developer Application, Developer will be required to first enter into a separate agreement with Blackboard which would, among other terms and conditions, require: (i) registration of each Developer Application; (ii) the purchase of appropriate “production-level” usage limits (such as quotas, bandwidth limits and/or rate limits); and/or (iii) the purchase of an appropriate level of membership in the “Blackboard Developer Network” or similar program. Information regarding the process for entering into such agreement shall be made available by Blackboard on the Portal or otherwise. Developer acknowledges that its expenditure of time and money in developing Developer Applications is at its own risk and Blackboard makes no guarantees with regard to the availability of Blackboard Applications.

1. **TERM AND TERMINATION**
   1. **Term of Master Agreement**. This Agreement shall commence on the date it is entered into by Developer and shall remain in effect unless terminated pursuant to the terms below.
   2. **Termination for Cause.** Either party may terminate this Agreement upon written notice in the event that the other party breaches a provision hereof and fails to cure such breach within thirty (30) days of receipt of written notice thereof, provided that Blackboard may terminate immediately if Blackboard believes in its sole discretion that such breach is a threat to the operation or security of Blackboard Applications. Blackboard may terminate this Agreement immediately if Developer markets or sells any product which is substantially similar, in whole or material part, to any Blackboard Application.
   3. **Termination for Convenience**. Either party may terminate this Agreement for any or no reason (i.e., for convenience) by providing written notice to the other party at least thirty (30) days prior to the effective date of such termination.
   4. **Effect of Termination**. Upon termination or expiration of this Agreement, any rights granted pursuant to this Agreement shall cease and each party shall return (or, if so elected by the owning party, destroy) the other party’s Confidential Information in its possession (including all copies thereof, whether electronic, hard-copy or otherwise). In addition, Developer shall immediately return all copies of the Blackboard APIs, Documentation and DVBAs.
   5. **Suspension.** Developer agrees that, if Blackboard determines, in its sole discretion, that Developer has: (a) breached any term, condition or restriction of this Agreement; (b) developed any Developer Application or other software which poses any security or performance risk to any system, network, hardware, software, or technology of Blackboard or its suppliers or customers; (c) taken any action, or engaged in any conduct, which presents a risk of liability to or violation of law by Blackboard, then, in any such event, Blackboard can suspend Developer’s access and use of the API or Documentation, any other materials or technology made available by Blackboard, and any other rights or privileges provided under this Agreement. Additionally, in any such event, Blackboard may require Developer to disable the interoperability of the applicable Developer Applications with the applicable Blackboard Applications in accordance with instructions provided by Blackboard.
   6. Notwithstanding the above: (a) Sections 1 (Definitions), 7 (Termination), 8 (Confidential Information), 9 (Intellectual Property Ownership), 11 (Indemnification), 12 (Limitation of Liability), and 13 (General Provisions) shall survive the expiration or termination of this Agreement.
2. **CONFIDENTIAL INFORMATION**
   1. **Definition**. "Confidential Information" shall mean any and all non-public information of a party to this Agreement which is either marked as confidential or is of a type or nature that should be recognized as confidential by a commercially reasonable party acting in good faith. Confidential Information of Blackboard includes non-public information regarding its software solutions and related documentation, APIS and related documentation, product plans, technical data, specifications, know-how, methodologies and business methods.
   2. **Use of Confidential Information**. Except as otherwise provided below, the party receiving Confidential Information (the “Recipient”): (i) shall hold all Confidential Information of the disclosing party (the “**Discloser**”) in confidence and will use such information only for the purposes set forth in this Agreement; and (ii) shall not disclose Confidential Information of the Discloser to any third party (other than employees, officers or directors of the party) except as expressly authorized herein or with the express written permission of the Disclosing Party. Notwithstanding the above, a party may disclose the other party’s Confidential Information to a third party who has a need to know, who has been pre-approved by the Disclosing Party, and who, prior to obtaining access to the Confidential Information, has executed a non-disclosure and limited use agreement approved by the Discloser. The Recipient shall protect the Confidential Information of Discloser at least in the manner and degree the Recipient uses to protect its own Confidential Information, but in no event less than a commercially reasonable standard of care.
   3. **Scope**. The foregoing obligations shall not apply to: (i) information that is or becomes publicly available through no fault of Recipient; (ii) information that is known by Recipient prior to the time of disclosure hereunder; (iii) information that is lawfully obtained from a third party who has the right to make such disclosure without any duty of confidentiality; or (iv) any disclosure required by applicable law, provided that Recipient shall use reasonable efforts to give advance notice to, and cooperate with, the Discloser in connection with any efforts to prevent such disclosure.
   4. **Account Information.** Developer shall maintain, and shall ensure that its authorized users maintain, the confidentiality of all account information (such as login information and passwords) that Blackboard provides to Developer, or Developer provides to Blackboard, to enable access to and use of a DVBA or any associated documentation and materials. Developer shall be responsible for preventing any unauthorized disclosure or use of such account information, any ramifications thereof, and for promptly notifying Blackboard of any breach of this obligation. Blackboard may deny access to any user if it reasonably believes that Developer’s account information has been lost, stolen, or compromised.
3. **INTELLECTUAL PROPERTY OWNERSHIP.**

Blackboard owns all Blackboard Applications, APIs and Documentation, any other materials or technology made available to Developer, and all derivative works of any of the above. Developer owns the Developer Applications. Developer acknowledges and agrees that: (i) other developers and third parties may utilize the APIs and Documentation to develop and make available applications which are similar to or compete with the Developer Applications; and (ii) Blackboard may develop and make available applications that are similar to or otherwise compete with, the Developer Applications.

1. **WARRANTIES; DISCLAIMER OF WARRANTIES**
   1. **Warranties of Developer.** Developer represents and warrants to Blackboard that:
      1. Each Developer Application: (i) shall be developed in a good and workmanlike manner and in compliance with the requirements and purposes of this Agreement; (ii) shall not infringe any third party’s intellectual property rights; (iii) shall be free from any viruses or malicious code, or any code or mechanism which would permit unauthorized access to any Blackboard Application (i.e. any access other than that which, in compliance with the APIs and Documentation, allows the exchange of data between the Blackboard Application and the Developer Application); and (iv) shall contain no open source, freeware, copyleft or similar components which would require general or public disclosure of any component of any Blackboard Application or other Blackboard technology or otherwise impair Blackboard’s rights in any Blackboard Application or technology.
      2. it shall comply with applicable laws and regulations;
      3. it will make no representations, commitments warranties or guarantees regarding Blackboard, any Blackboard Application or any other intellectual property of Blackboard other than as permitted in the Agreement.
      4. It shall not provide any data to Blackboard or to any Blackboard Application other than sample data which does not identify, reflect or represents any information regarding any actual individual or entity;
   2. **EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE PARTIES DISCLAIM ALL WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL BLACKBOARD BE LIABLE FOR THE FAILURE, DELAY, ERROR OR IMPAIRMENT OF INTEGRATION OR INTEROPERABILITY BETWEEN ANY DVBA or BLACKBOARD APPLICATION AND ANY DEVELOPER APPLICATION.**
2. **INDEMNIFICATION.**

Developer shall, indemnify, defend and hold Blackboard (and all of its officers, employees, agents and Clients; collectively, the “Indemnified Parties”) harmless and from any and all damages, losses, judgments, liabilities, costs and expenses (including reasonable attorneys' fees; collectively, “Damages”) arising out of or relating to:

* + 1. any third party claim or legal action that any Developer Application or any other materials or other intellectual property made available to Blackboard hereunder infringes any copyrights, confidentiality rights, trade secrets, trademarks, patents and other intellectual property rights;
    2. any third party claim or legal action relating to or arising in connection with any Developer Application (including its interoperability with any Blackboard Application), any other intellectual property of Developer or any act or omission of Developer;
    3. any third party claim or legal action relating to or arising from any a breach by Developer of any representation, warranty or covenant set forth in this Agreement.

1. **LIMITATION OF LIABILITY.**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL BLACKBOARD OR ITS LICENSORS BE LIABLE, EVEN IF WE WERE ADVISED IN ADVANCE OF THE POSSIBILITY, FOR: (A) ANY LOSS OF BUSINESS, CONTRACTS, PROFITS, ANTICIPATED SAVINGS, GOODWILL OR REVENUE; (B) ANY LOSS OR CORRUPTION OF DATA, OR (C) ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES). IN NO EVENT SHALL BLACKBOARD AND OUR LICENSORS’ CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO THE AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM, EXCEED THE GREATER OF: (A) THE AMOUNT OF ANY FEES PAID BY DEVELOPER HEREUNDER DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRIOR TO THE FIRST CLAIM ASSERTED HEREUNDER; OR (B) ONE HUNDRED DOLLARS ($100). THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THE AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE OR HAVE FAILED OF THEIR ESSENTIAL PURPOSE.**

1. **GENERAL PROVISIONS**
   1. **Entire Agreement**. The terms and conditions contained in this Agreement comprise the entire agreement and understanding between Blackboard and Developer and neither is bound by any representation or inducements not specifically set forth herein. This Agreement supersedes any prior representations, discussion, communications or presentations.
   2. **Severability, Modification and Waiver.**  If any portion of this Agreement is held to be void, invalid or otherwise unenforceable, in whole or part, the remaining portions of this Agreement shall remain in effect. This Agreement may not be modified or amended except in writing signed by an authorized representative of each party. A party’s failure to exercise any rights herein shall not constitute or be deemed a waiver or forfeiture of such rights. If a party wishes to waive its rights hereunder, it must provide written notification of its waiver of such rights to the other party.
   3. **Non-exclusivity**. This Agreement is non-exclusive.
   4. **Independent Contractors and Non-Interference.** The parties are each independent contractors. This Agreement does not create an actual or apparent agency, joint venture, fiduciary or employee and employer relationship between the parties. Neither party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of the other party or to bind the other party in any matter, including, without limitation, the right or authority to obligate the other party to accept or deliver any order, or to sell or refuse to sell to any customer.
   5. **Dispute Resolution**. In the event of any controversy or claim arising out of or relating to this Agreement, or a breach thereof, the parties will consult and negotiate with each other and attempt to reach a satisfactory solution. If they do not reach settlement within a period of thirty (30) days, then, upon notice by any party to the other), any such controversy or claim will be referred to arbitration for full and final settlement by a panel of three arbitrators (or fewer if agreed by the Parties) appointed in accordance with the Rules of Arbitration of the International Chamber of Commerce (“ICC Rules”). All arbitration proceedings will be conducted in the English language and will be conducted pursuant to ICC Rules. Any award issued pursuant to ICC Rules may be enforced by any court of competent jurisdiction. The allocation of the cost of the arbitrators and administration of conducting the arbitration will be borne equally by the Parties. The governing law is the State of New York and the place of arbitration is Washington, D.C. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.
   6. **Assignment.** No right or obligation of Developer under the Agreement may be assigned, delegated or otherwise transferred, whether by agreement, operation of law or otherwise, without Blackboard’s express prior written consent, and any attempt to assign, delegate or otherwise transfer any of Developer’s rights or obligations hereunder, without such consent, shall be void. Subject to the preceding sentence, the Agreement shall bind each party and its permitted successors and assigns.
   7. **Notices.** Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier, or mailed by certified or registered mail, postage prepaid, return receipt requested, and, in the case of notices to us, sent to Blackboard Inc., Attn: General Counsel, 1111 19th Street NW, 9th Floor, Washington DC, 20036 or to such other address as shall be given in accordance with this Section 13.5, and, in the case of Developer, to the address supplied to Blackboard when registering, and shall in each case be effective upon receipt.
   8. **Force Majeure.** Neither party shall be liable for failure to fulfill its obligations under this Agreement if that failure is caused, directly or indirectly, by reasons beyond its reasonable control, including flood, fire, civil disorder, government actions, war, terrorism, embargoes, labor disputes/strikes or other natural calamity or act of God.
   9. **No Third-Party Beneficiaries.** Nothing in this Agreement is intended to, or shall, create any third-party beneficiaries, whether intended or incidental, and neither Party shall make any representations to the contrary.
   10. **Publicity.** Except as otherwise provided in this Agreement, each party shall obtain the prior written consent of the other prior to: (a) releasing any press release or public announcement regarding the other party or the relationship established hereby or (b) using the other party’s name, or the name of any product or solution of the other party in any marketing or other materials or campaigns.
   11. **Audit Rights.** Upon reasonable notice, Blackboard shall have the right to audit, at its expense, Developer’s books and records, business and development practices, operations, systems and Developer Applications not more than once per calendar year to ensure past and ongoing compliance with this Agreement. Developer shall cooperate and support any such audit as reasonably requested by Blackboard.