



**Blackboard**

**BLACKBOARD LICENSE AND SERVICES AGREEMENT  
COVER PAGE**

The attached documents describe the relationship between Blackboard Inc. and the Customer identified below. The documents attached to this cover page will consist of the Master Terms, which describe and set forth the general legal terms governing the relationship, and one (1) or more schedules describing and setting forth detail about that relationship, depending upon the particular software and/or services Blackboard will provide to the Customer.

This License and Services Agreement includes this cover page, the attached pricing summary, Master Terms, and all Schedules that are attached to such Master Terms and are separately executed by the Parties. This Agreement, including the attached Master Terms, will become effective when this cover page is executed by authorized representatives of both Parties.

<b>CUSTOMER INFORMATION:</b>	
<b>Name/Company:</b> <u>University of Idaho</u>	<b>Principal Contact Person:</b> <u>David Schlater</u>
<b>Address:</b> <u>Information Technology Services</u> <u>Administration Building 140</u> <u>Moscow, Idaho 83844-3155</u>	<b>Phone:</b> <u>202-885-2125</u>
	<b>Fax:</b> _____
	<b>Billing Contact:</b> <u>Margo L. Holthaus</u>
	<b>Title:</b> <u>Accounts Payable</u>
	<b>Address:</b> <u>Accounts Payable</u> <u>P.O. Box 4244</u> <u>Moscow, ID 83844-4244</u>
	<b>Email Address:</b> <u>margo@uidaho.edu</u>
<b>Initial Term of Agreement:</b> <u>Three Years</u>	<b>Phone:</b> <u>202-885-2127</u>
	<b>Fax:</b> _____

IN WITNESS WHEREOF, the parties hereto have executed this cover page as of the date hereof.  
**BLACKBOARD INC.**

*For the Regents of the*  
**CUSTOMER: UNIVERSITY OF IDAHO**

\_\_\_\_\_  
**Signature**  
**TESS FRAZIER- VICE PRESIDENT**  
\_\_\_\_\_  
**Print Name and Title**

\_\_\_\_\_  
**Date:**

*Christopher Johnson*  
\_\_\_\_\_  
**Signature**  
**CHRISTOPHER JOHNSON**  
\_\_\_\_\_  
**Print Name and Title**

*12-19-08*  
\_\_\_\_\_  
**Date:** *DIRECTOR, CONTRACTS*

### University of Idaho Pricing Summary

Product Description	Quantity	Units	Year 1 of Initial Term	Year 2 of Initial Term	Year 3 of Initial Term
Blackboard CE Enterprise License	1	YR	\$61,400	\$61,400	\$61,400
<i>One Time Price Reduction</i>			<\$12,280>	<\$7,370>	<\$150>
<b>Total Fees Due:</b>			<b>\$49,120</b>	<b>\$54,030</b>	<b>\$61,250</b>

#### Academic Suite-Site; Schedule of Fees Table

Designated Server Site (Physical Location of the Software): Information Technology Services Administration Building 140 Moscow, Idaho 83844-3155	Database Version:	Operating System:	Hardware Model:
Customers FTE: 8,001 – 15,000			

## BLACKBOARD MASTER TERMS

Blackboard offers software and services that are useful for a range of educational purposes, from development of course websites to development of an entire online campus, and Blackboard also offers technology that allows institutions to establish and manage accounts for a stored value card system and security access system. Customer wishes to use such Blackboard software, services and other technology to enhance its own educational programs, and Blackboard is willing to grant to Customer a license for this purpose in accordance with the terms and conditions contained in this Agreement.

### AGREEMENT

In consideration of the following mutual promises and agreements, the Parties agree as follows:

#### 1. SCOPE OF AGREEMENT.

**1.1 Exhibits and Schedules.** These Master Terms describe the general terms by which Customer may license Software and purchase Services and/or Equipment (each as defined below) from Blackboard as set forth in any Schedule (as defined below). The pricing related to the license of software and the purchase of services is outlined in the Pricing Summary and the specific terms related to the license of Software or purchase of Services and/or Equipment are described in the appropriate Software Schedules or Service Schedules which have been separately executed by the Parties, and Exhibits to such Schedules (collectively referred to as "Schedules"). Schedules may be added or deleted from time to time by the agreement of the parties, but Customer acknowledges that it only has rights to use Software or receive Services/Equipment to the extent provided pursuant to one or more applicable Schedules which has been executed and remains in force.

**1.2 Order of Precedence.** In the event a conflict arises between these Master Terms and the provisions of any Schedule, these Master Terms will govern unless the relevant Schedule expressly provides otherwise. No term or provision set forth or cross-referenced in any purchase order or payment documentation will be construed to amend, add to, or supersede any provision of this Agreement. This means that the terms and conditions of any purchase order or payment documentation will not be binding upon either Party.

#### 2. DEFINITIONS

**2.1 "Agreement"** means the License and Services Agreement including, the Cover Page, the Pricing Summary and all Schedules (and exhibits to Schedules) attached to these Master Terms, as amended from time to time.

**2.2 "Available Date"** means, with respect to any particular Software, Equipment, or Support Services, the date upon which the relevant Software or Support Services are made available to Customer pursuant to the terms of the relevant Schedule, regardless of whether Customer utilizes the Software, Equipment, or Support Services and for Equipment, the date a valid Purchase Order is accepted by Blackboard.

**2.3 "Blackboard"** means Blackboard Inc., a Delaware corporation with its principal office and place of business at 650 Massachusetts Avenue, NW, 1<sup>st</sup> floor, Washington, DC 2001 U.S.A., including its wholly owned subsidiaries.

**2.4 "Confidential Information"** means any non-public information disclosed by either Party to the other, related to the operations of either Party or a third party that has been identified as confidential or that by the nature of the information or the circumstances surrounding disclosure ought reasonably to be treated as confidential. Without limiting the generality of the foregoing, Confidential Information will be deemed to include, without limitation, information about a Party's business, vendors, customers, end users, end users' grades or other educational information, end users' financial information, transaction data, products, services, employees, finances, costs, expenses, financial or competitive condition, policies, and practices, computer software programs and programming tools and their respective design, architecture, modules, interfaces, databases and database structures, non-literal elements, capabilities and functionality, source code and object code, as well as research and development efforts, marketing and distribution efforts, licensing, cross-licensing, marketing and distribution practices, computer software programs and other information licensed or otherwise disclosed to a Party in confidence by a third party, and any other non-public information that does or may have economic value by reason of not being generally known.

**2.5 "Customer"** means the customer identified on the cover page to which these Master Terms are attached.

**2.6 "Customer Content"** means any data, information, graphics or other media files or other content, including, but not limited to, course materials, provided by or for Customer or any end user of the Software through use of the Software, excluding any portion of the Software or Documentation.

**2.7 "Documentation"** means, with respect to any particular Software or Equipment, any applicable standard end user specifications and/or 2008-BLACKBOARD CONFIDENTIAL AND PROPRIETARY  
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operating instructions provided by Blackboard for such Software and/or Equipment, which may be amended from time to time. Documentation does not include any sales or marketing materials.

**2.8 "Effective Date"** means the date upon which both Parties have executed the cover page to which these Master Terms are attached.

**2.9 "Equipment"** means any hardware and/or firmware provided by Blackboard to Customer pursuant to any Schedule, including, without limitation, hardware and/or firmware related to the stored value card system and security access system. Unless otherwise specified, Equipment shall be provided to Customer upon receipt and acceptance by Blackboard of a valid Purchase Order.

**2.10 "Master Terms"** means these Blackboard Master Terms.

**2.11 "Party"** means either Blackboard or Customer.

**2.12 "Services"** means any services provided by Blackboard to Customer pursuant to any Schedule, including, without limitation, consulting, educational, managed hosting installation and managed hosting, system administration, training or maintenance and support services.

**2.13 "Software"** means the object code version of the Blackboard software as described on the applicable Software Schedule(s).

**2.14 "Test Copy"** shall mean one (1) copy of the Software for use solely for the purposes of testing the Software. Under no circumstances shall a test copy be used for production purposes. Unless otherwise indicated in an attached Schedule, test copies are unsupported.

#### 3. APPLICATION OF SCHEDULES.

**3.1 Provision by Blackboard.** Blackboard agrees to make available and/or provide, as applicable, the Software, Equipment or Services required by any Schedule duly executed, attached and incorporated into this Agreement.

**3.2 No Further Obligations.** Except as required by any applicable Schedule or as otherwise agreed between the Parties, Customer acknowledges that Blackboard has no obligation under this Agreement to provide Software, Equipment or Services of any nature to Customer.

#### 4. CONFIDENTIALITY

**4.1 Nondisclosure and Nonuse.** Each Party will keep the other Party's Confidential Information confidential. Specifically, each Party receiving Confidential Information agrees not to disclose such Confidential Information except to those directors, officers, employees and agents of such Party (i) whose duties justify their need to know such information and (ii) who have been clearly informed of their obligation to maintain the confidential, proprietary and/or trade secret status of such Confidential Information. Each Party acknowledges that it has all requisite authority under applicable laws to provide the other Party with access to Confidential Information. Each Party receiving Confidential Information further agrees that it will not use such Confidential Information except for the purposes set forth in this Agreement. Each Party receiving Confidential Information shall treat such information as strictly confidential, and shall use the same care to prevent disclosure of such information as such Party uses with respect to its own confidential and proprietary information, provided that in any case it shall not use less than the care a reasonable person would use under similar circumstances.

**4.2 Notice.** The receiving Party will promptly notify the disclosing Party in the event the receiving Party learns of any unauthorized possession, use or disclosure of the Confidential Information and will provide such cooperation as the disclosing Party may reasonably request, at the disclosing Party's expense, in any litigation against any third parties to protect the disclosing Party's rights with respect to the Confidential Information.

**4.3 Terms of Agreement.** Except as otherwise provided by law, neither Party shall disclose the terms of the Agreement to any third party; provided, however, that either Party may disclose the terms of this Agreement to its professional advisers, or to any potential investor or acquirer of a substantial part of such Party's business (whether by merger, sale of assets, sale of stock or otherwise), provided that such

third party is bound by a written agreement or legal duty on terms at least as strict as those set out in this Section 4 to keep such terms confidential.

**4.4 Exceptions to Confidential Treatment.** Notwithstanding the foregoing, the preceding provisions of this Section 4 will not apply to information that: (i) is publicly available or in the public domain at the time disclosed; (ii) is or becomes publicly available or enters the public domain through no fault of the recipient; (iii) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (iv) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (v) is independently developed by the recipient; or (vi) is approved for release or disclosure by the disclosing Party without restriction. Each Party may disclose Confidential Information to the limited extent necessary: (a) to comply with the order of a court of competent jurisdiction or other governmental body having authority over such Party, provided that the Party making the disclosure pursuant to the order will first have given notice to the other Party and made a reasonable effort to obtain a protective order; (b) to comply with applicable law or regulation requiring such disclosure; or (c) to make such court filings as may be required to establish a Party's rights under this Agreement.

**4.5 Contact Information.** Customer hereby authorizes Blackboard to include and use individual Customer contact information (i.e., primary contact, system administrator, billing contact) in contact lists for emails, mailings, and faxes from Blackboard relating to Blackboard-provided products and services, support, product and service matters, newsletters, user groups and events, and to provide contact information to third parties whose products or services Customer has purchased through Blackboard for the purpose of providing those products and services or support or maintenance for the products and services. Customer acknowledges that it has the right to provide such consent, and Blackboard acknowledges that it will not use or distribute the contact information except as explicitly set forth above.

**4.6 Other Rights.** Customer hereby grants to Blackboard the limited right to use Customer's name, logo and/or other marks for the sole purpose of listing Customer as a user of the applicable Software in Blackboard's promotional materials. Blackboard agrees to discontinue such use within fourteen (14) days of Customer's written request.

## **5. TERM; TERMINATION**

**5.1 Term.** This Agreement shall commence as of the Effective Date and shall continue in effect until either: (i) the expiration of the minimum term, as specified on the Cover Sheet, or (ii) the expiration or termination of all Schedules, whichever occurs later.

**5.2 Termination for Breach.** In the event that either Party materially breaches any obligation, representation or warranty under this Agreement, the non-breaching Party may terminate this Agreement in its entirety, or, at the non-breaching Party's option, it may terminate solely the relevant Schedule pursuant to which such breach has occurred, provided in either case that such breach has not been corrected within thirty (30) days after receipt of a written notice of such breach. Without limiting the foregoing, either Party may terminate this Agreement immediately upon written notice to the other Party in the event the other Party materially breaches the provisions of Section 4 or the license usage restrictions in any Software Schedule.

**5.3 Termination for Insolvency.** Without prejudice to any other available remedies, either Party may terminate this Agreement immediately upon written notice if: (i) the other Party becomes insolvent, files for relief under any bankruptcy law, or makes an assignment for the benefit of its creditors generally or has a liquidator or a receiver appointed over a substantial part of its business or assets or commences to be wound up (other than for the purposes of a solvent amalgamation or reconstruction) or (ii) any other circumstances arise in any jurisdiction which entitle a Court or a creditor to appoint a liquidator, receiver, administrative receiver or administrator or equivalent officer or make a winding up order in relation to such Party.

**5.4 Effect of Termination.** Upon termination of this Agreement, all Schedules shall automatically and immediately terminate, and all licenses granted under this Agreement shall immediately cease. Upon termination, Customer will immediately discontinue all use of materials licensed under this Agreement, and will pay to Blackboard all amounts due and payable hereunder. Each Party: (i) will immediately cease any use of the other Party's Confidential Information; (ii) will delete any of

the other Party's Confidential Information from its computer storage or any other media, including, but not limited to, online and off-line libraries; and (iii) will return to the other Party or, at the other Party's option, destroy, all copies of the other Party's Confidential Information then in its possession. Without limiting the foregoing, upon termination of any Schedule (including upon termination of this Agreement in its entirety), the provisions of such Schedule regarding the effect of such Schedule's termination shall also apply.

**5.5 Survival.** The termination or expiration of the Agreement shall not relieve either Party of any obligation or liability accrued hereunder prior to or subsequent to such termination, nor affect or impair the rights of either Party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided in this Agreement. Without limiting the foregoing, the provisions of Sections 1, 2, 4, 5.4, 5.5, 6, 7, 8 and 9 of these Master Terms shall survive the termination of this Agreement for any reason.

## **6. FEES; EXPENSES**

**6.1 Fees; Payments.** In consideration for Blackboard's performance under this Agreement, Customer agrees to pay Blackboard all fees required by the Schedules, as applicable, which fees will be due in accordance with the provisions of the relevant Schedules, but in no event later than thirty (30) days after the date of an invoice from Blackboard. Blackboard expressly reserves the right to change the fees payable under any Schedule with respect to any renewal of such Schedule upon expiration of its then-current term. Customer will pay all fees in U.S. dollars. Payments shall be sent to the address indicated on the invoice.

**6.2 Late Fees.** Blackboard may charge interest on any overdue amounts at the lower of: (i) the highest permissible rate or (ii) 18% per annum, charged at 1.5% per month from the date on which such amount fell due until the date of payment, whether before or after judgment.

**6.3 Audit.** For the sole purpose of ensuring compliance with this Agreement, Blackboard shall have the right, at its expense, to audit Customer's use of the Software upon not less than seven (7) days' advance notice. Any such audit shall be during Customer's normal business hours and shall not be made more frequently than once every twelve months, provided that if any such audit reveals a material breach of this Agreement, Blackboard may conduct such audits on a quarterly basis until such audits confirm that the relevant breach has been cured. The cost of any such audit shall be borne by Blackboard unless the audit reveals that Customer has underpaid fees due under this Agreement in excess of 5% of the total owed for any calendar year, in which case Customer shall, in addition, reimburse to Blackboard the reasonable costs of conducting the audit.

**6.4 Taxes.** The fees hereunder do not include any sales, use, excise, import or export, value-added or similar tax or interest, or any costs associated with the collection or withholding thereof, or any government permit fees, license fees or customs or similar fees levied on the delivery of any Software or Equipment or the performance of Services by Blackboard to Customer. Customer will be responsible for payment of such applicable sales, use, excise, import or export, value-added or similar tax or interest at point of sale. All payments due under this Agreement shall be made without any deduction or withholding, unless such deduction or withholding is required by any applicable law of any relevant governmental revenue authority then in effect. If Customer is required to deduct or withhold, Customer will promptly notify Blackboard of the requirement, pay the required amount to the relevant governmental authority, provide Blackboard with an official receipt or certified copy or other documentation acceptable to Blackboard evidencing payment, and pay to Blackboard, in addition to the payment to which Blackboard is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Blackboard equals the full amount Blackboard would have received had no such deduction or withholding been required. If Customer is exempt from any such taxes or fees, then such taxes or fees shall not be charged to Customer upon Blackboard's receipt of a copy of Customer's tax exemption certificate or number.

**6.5 Expenses.** Except as provided in these Master Terms or any Schedule, each party will be responsible for its own expenses incurred in rendering performance under this Agreement, including, without limitation, the cost of facilities, work space, computers and computer time, development tools and platforms, utilities management, personnel and supplies.



**6.6 Purchase Orders.** Customer agrees that if its internal procedures require that a purchase order be issued as a prerequisite to payment of any amounts due to Blackboard, it will timely issue such purchase order and inform Blackboard of the number and amount thereof. Customer agrees that the absence of a purchase order, other ordering document or administrative procedure may not be raised as a defense to avoid or impair the performance of any of Customer's obligations under this Agreement, including payment of amounts owed to Blackboard.

**7. DISCLAIMERS AND REMEDIES.** THE FOLLOWING PARAGRAPHS OF THIS SECTION 7 ARE IMPORTANT LEGAL LANGUAGE. PLEASE READ THESE PARAGRAPHS CAREFULLY, AS THEY LIMIT BLACKBOARD'S LIABILITY TO CUSTOMER.

**7.1 Disclaimer of Warranty.** EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN ANY ATTACHED SCHEDULE(S): (A) THE SOFTWARE, EQUIPMENT AND ALL PORTIONS THEREOF, AND ANY SERVICES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLACKBOARD AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY, MERCHANTABILITY, TITLE, NON-INFRINGEMENT AND/OR QUIET ENJOYMENT; (B) NEITHER BLACKBOARD NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE SOFTWARE WILL MEET ANY REQUIREMENTS OR NEEDS CUSTOMER MAY HAVE, OR THAT THE SOFTWARE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION, OR THAT ANY DEFECTS OR ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE IS COMPATIBLE WITH ANY PARTICULAR COMPUTER SYSTEM OR SOFTWARE; AND (C) BLACKBOARD AND ITS LICENSORS MAKE NO GUARANTEE OF ACCESS TO OR OF ACCURACY OF THE CONTENT CONTAINED IN OR ACCESSED THROUGH THE SOFTWARE.

**7.2 Limitations of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL BLACKBOARD OR ITS LICENSORS BE LIABLE TO CUSTOMER FOR ANY OF THE FOLLOWING TYPES OF LOSS OR DAMAGE ARISING IN ANY WAY OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SOFTWARE, EQUIPMENT OR SERVICES, WHETHER OR NOT BLACKBOARD WAS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE: (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'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM, EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER UNDER THIS AGREEMENT FOR THE PARTICULAR SOFTWARE, EQUIPMENT AND/OR SERVICE WITH RESPECT TO WHICH THE RELEVANT CLAIM AROSE DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT, ACT OR OMISSION GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

**7.3 Liability Not Excluded.** Nothing in this Section 7 excludes or limits the liability of Blackboard to the Customer for death or personal injury caused by the negligence of Blackboard or any other liability which cannot be excluded by law.

**7.4 Essential Basis.** The Parties acknowledge and agree that the disclaimers, exclusions and limitations of liability set forth in this Section 7 form an essential basis of this Agreement, and that, absent any such disclaimers, exclusions or limitations of liability, the terms of this Agreement, including, without limitation, the economic terms, would be substantially different.

## 8. INFRINGEMENT

**8.1 Blackboard Infringement Obligations.** If any third party brings a claim against Customer alleging that the use of the Blackboard-manufactured Software or Equipment authorized under this Agreement infringes: (1) a U.S. or European patent issued prior to the Effective Date; or (2) a copyright under applicable law of any jurisdiction Customer must promptly notify Blackboard in writing and make no admission in relation to such alleged infringement. In connection with any such claim and provided that Customer has promptly fulfilled all of the foregoing obligations and is not in material breach of the Agreement, Blackboard shall indemnify, and, at its own expense and option: (i) defend and settle such claim, (ii) procure Customer the right to use the Software or Equipment, (iii) modify or replace the Software or Equipment to avoid infringement; or (iv) refund the applicable fee paid for the current term. In the event that Blackboard exercises option (i) above, it shall have the sole and exclusive authority to defend and/or settle any such claim or action, provided that Blackboard will keep Customer informed of, and will consult with any independent legal advisors appointed by Customer at Customer's own expense regarding the progress of such defense.

**8.2 Exceptions.** Blackboard shall have no liability to Customer under Section 8.1 or otherwise for any claim or action alleging infringement or violation of applicable privacy or publicity laws based upon: (i) any use of the Software or Equipment in a manner other than as specified by Blackboard; (ii) any combination of the Software or Equipment with other products, equipment, devices, software, systems or data not manufactured by Blackboard (including, without limitation, any software produced by Customer for use with the Software) to the extent such claim is directed against such combination; (iii) the Customer Content, or the use of the Customer Content; or (iv) any modifications or customization of the Software or Equipment by any person other than Blackboard (any of the foregoing, separately and collectively, "Customer Matters").

**8.3 Customer Infringement Obligations.** Customer shall, at its own expense, indemnify and, at Blackboard's option, defend Blackboard against any losses, damages or expenses (including, without limitation, reasonable attorneys' fees) arising from any claim, suit or proceeding brought by a third party against Blackboard arising out of a Customer Matter and shall pay any damages finally awarded or settlement amounts agreed upon to the extent based upon a Customer Matter (any of the foregoing indemnifiable matters, each a "Blackboard Claim"), provided that Customer will not settle any Blackboard Claim unless such settlement completely and forever releases Blackboard with respect thereto or unless Blackboard provides its prior written consent to such settlement. Blackboard agrees (i) to provide Customer with prompt written notice of any Blackboard Claim and (ii) to provide such assistance as Customer may reasonably request, at Customer's expense, in order to settle or defend any such Blackboard Claim.

**8.4 Exclusive Remedy.** THE FOREGOING PROVISIONS OF THIS SECTION 8 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF EACH PARTY, AND THE EXCLUSIVE REMEDY OF EACH PARTY WITH RESPECT TO CLAIMS BY ANY THIRD PARTY ALLEGING INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT.

## 9. MISCELLANEOUS MATTERS

**9.1 Severability.** Should any term or provision of this Agreement be finally determined by a court of competent jurisdiction to be void, invalid, unenforceable or contrary to law or equity, the offending term or provision shall be construed (i) to have been modified and limited (or if strictly necessary, deleted) only to the extent required to conform to the requirements of law and (ii) to give effect to the intent of the Parties (including, without limitation, with respect to the economic effect of the Agreement), and the remainder of this Agreement (or, as the case may be, the application of such provisions to other circumstances) shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

**9.2. Conflict Resolution.** Except with respect to controversies or claims regarding either Party's Confidential Information or proprietary rights under this Agreement, in the event any controversy or claim arises in connection with any provision of this Agreement, the Parties shall try to settle their differences amicably between themselves by referring the disputed matter to their respective designated representatives for discussion and resolution. Either Party may initiate such informal dispute resolution by sending written notice of the

dispute to the other Party, and if such representatives are unable to resolve such dispute within thirty (30) days of initiating such negotiations, either Party may seek the remedies available to such Party under law. Notwithstanding the foregoing, nothing in this Section 9.2 will be construed to limit either Party's rights under Sections 5 and 9.6.

**9.3 Governing Law.** ~~This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of New York without reference to its conflicts of law provisions, and each Party irrevocably submits to the non-exclusive jurisdiction of the courts in or for the District of Columbia.~~ The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement

**9.4 Modification and Waiver.** No modification, amendment, supplement, or other change to this Agreement, including, without limitation, changes to any Schedule will be effective unless set forth in writing and signed by duly authorized representatives of Blackboard and Customer. No waivers under this Agreement will be effective unless expressly set forth in writing and signed by a duly authorized representative of the Party against whom enforcement thereof is sought. The failure of either Party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver of such provision or right with respect to subsequent claims (unless expressly so stated in a valid amendment or waiver), and no waiver of any provision or right shall affect the right of the waiving Party to enforce any other provision or right herein.

**9.5 Assignment.** No right or obligation of Customer under this Agreement may be assigned, delegated or otherwise transferred, whether by agreement, operation of law or otherwise, without the express prior written consent of Blackboard, and any attempt to assign, delegate or otherwise transfer any of Customer's rights or obligations hereunder, without such consent, shall be void. Subject to the preceding sentence, this Agreement shall bind each Party and its permitted successors and assigns.

**9.6 Remedies.** The Parties agree that any breach of this Agreement would cause irreparable injury for which no adequate remedy at law exists; therefore, the Parties agree that equitable remedies, including without limitation, injunctive relief and specific performance, are appropriate remedies to redress any breach or threatened breach of this Agreement, in addition to other remedies available to the Parties. All rights and remedies hereunder shall be cumulative, may be exercised singularly or concurrently and shall not be deemed exclusive except as provided in Sections 5, 7 and 8. If any legal action is brought to enforce any obligations hereunder, the prevailing Party shall be entitled to receive its legal fees, court costs and other collection expenses, in addition to any other relief it may receive.

**9.7 Notices.** Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier, sent by facsimile, or mailed by certified or registered mail, postage prepaid, return receipt requested, and addressed as set forth above or to such other address as shall be given in accordance with this Section 9.7, and shall be effective upon receipt.

**9.8 Force Majeure.** Except with regard to payment obligations, neither Party will be responsible for any failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts

of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts or inability to obtain any export or import license or other approval or authorization of any government authority.

**9.9 U.S. Government Users.** The following applies to any end user that is a U.S. Government entity: Each of the components that comprise the Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Software with only those rights set forth herein. Contractor/manufacturer is Blackboard Inc., 650 Massachusetts Avenue, NW, 1<sup>st</sup> floor, Washington, DC 2001 All rights not specifically granted in this Agreement are reserved by Blackboard.

**9.10 Export Control.** Customer shall not export or allow the export or re-export the Software, any components thereof or any Confidential Information of Blackboard without the express, prior, written consent of Blackboard and except in compliance with all export laws and regulations of the U.S. Department of Commerce and all other U.S. agencies and authorities, including without limitation, the Export Administration Regulations of the U.S. Department of Commerce Bureau of Export Administration (as contained in 15 C.F.R. Parts 730-772), and, if applicable, relevant foreign laws and regulations.

**9.11 Relationship.** Blackboard and Customer are independent contracting parties. This Agreement shall not constitute the Parties as principal and agent, partners, joint venturers, or employer and employee.

**9.12 Employment.** Customer hereby agrees that during the Term, Customer will not, except with prior written approval of Blackboard, directly or indirectly hire (including hiring as an independent contractor) or attempt to solicit for hire, or encourage to end their relationship with Blackboard, any persons who are employed by Blackboard or have been employed by Blackboard at any time within one year preceding such attempts to hire or solicit for hire. For purposes of this Agreement, "Blackboard" includes Blackboard Inc. and its subsidiaries.

**9.12 Entire Agreement.** This Agreement and Exhibit(s), constitutes the entire, full and complete Agreement between the Parties concerning the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written communications, proposals, conditions, representations and warranties, and this Agreement prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the Parties relating to its subject matter. This means that Customer may not and should not rely on any sales or marketing materials provided to it by Blackboard. Blackboard's only obligations to Customer related to the subject matter of this Agreement are set forth in this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall exclude or restrict the liability of either party arising out of fraud or fraudulent misrepresentation. This Agreement, and any Schedule thereto, may be executed in counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument. Facsimile signatures will be considered original signatures. **END OF MASTER TERMS**

**BLACKBOARD LEARNING SYSTEM CE™ ENTERPRISE LICENSE  
SOFTWARE SCHEDULE**

This *Blackboard Learning System CE™—Enterprise License Software Schedule* ("Schedule") is made as of the last date indicated below, by and between Blackboard and University of Idaho ("Customer") and is an addendum to the Blackboard License And Services Agreement between Blackboard and Customer, which includes, without limitation, the Master Terms and other Schedules incorporated therein. Capitalized terms used in this Schedule that are not otherwise defined in this Schedule shall have the meaning set forth in the Master Terms. In consideration of the following promises, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**1. ADDITIONAL DEFINITIONS**

- 1.1 **"Application Pack"** means the object code software utility release(s) that are designed to work with the Software that may be, in Blackboard's sole discretion, issued in between Updates, designated by number, and/or later incorporated into Updates or Upgrades.
- 1.2 **"Authorized End User"** means any individual who is a student resident in a degree- or certificate- granting program of Customer, prospective student, alumni, consortia student registered to take one of Customer's regularly offered courses of instruction, employee, trustee or collaborating researcher of Customer or a Customer employee (solely to the extent any such employee use the Software for Customer's internal training purposes). Customer's Authorized Users will not exceed Customer's FTE listed on the Pricing Summary.
- 1.3 **"Corrections"** means a change (e.g., fixes, workarounds and other modifications) made by or for Blackboard which corrects Software Errors in the Software, provided in temporary form such as a patch, and later issued in the permanent form of an Update.
- 1.4 **"Designated Server Site"** means the physical location where the Software will be installed, as identified on the Pricing Summary. Unless otherwise indicated in the Pricing Summary, the Designated Server Site shall be the physical location at the primary address of Customer.
- 1.5 **"Pricing Summary"** means the pricing attributable to the software and services provided pursuant to this Schedule as set forth on the Cover Page to the Agreement.
- 1.6 **"Software"** means, for purposes of this Schedule only, the Blackboard Learning System CE Enterprise Ltd License proprietary software including Updates, Upgrades, Corrections and Application Packs thereto.
- 1.7 **"Software Error"** means a failure of any Software materially and substantially to conform to applicable Documentation, provided that such failure can be reproduced and verified by Blackboard using the most recent version (including all available Corrections, Application Packs, Updates, and Upgrades) of such Software made available to Customer, and further provided that Software Errors do not include any nonconformity to applicable Documentation caused by: (i) Customer's or its end users' negligence; (ii) any modification or alteration to the Software not made by Blackboard; (iii) data that does not conform to Blackboard's specified data format; (iv) operator error; (v) use on any system other than the operating system specified in the Documentation, (v) accident, misuse or any other cause which, in Blackboard's reasonable determination, is not inherent in the Software; or (vi) any use of the Software other than expressly authorized in this Schedule.
- 1.8 **"Supported Interface"** means application-based interfaces (API) provided pursuant to the *Blackboard PowerLinks™* program, to the extent such program is available, network protocols, data formats, database schemas, and file formats available for use in the Software as expressly specified in the Documentation.
- 1.9 **"Third Party Software"** means the software or content manufactured or created by third parties that has been incorporated by Blackboard into the Software or that has been shipped with the Software.
- 1.10 **"Updates"** means the object code versions of the Software that have been developed by Blackboard to correct any Software Error and/or provide additional functionality and that have been commercially released with a version number that differs from that of the prior version in the number to the right of the decimal point (e.g., 2.0 vs. 2.1) and that are not marketed as a separate product or module, including Application Packs.
- 1.11 **"Upgrades"** means the object code versions of the Software that have been customized, enhanced, or otherwise modified by or on behalf of Blackboard, acting in its sole discretion, to include additional functionality and that have been released with a version number that differs from that of the prior version in the number to the left of the decimal point (e.g., 3.0 vs. 2.0) and that are not marketed as a separate product or module.

**2. LICENSE**

- 2.1 **"Grant of License."** Subject to the terms and conditions of this Schedule and the Master Terms, Blackboard grants Customer a limited, non-exclusive, non-transferable, non-sublicenseable right and license to install and use one (1) production copy and (1) unsupported Test Copy of the Software, for one (1) installation at Customer's Designated Server Site, solely in the form of machine-readable, executable, object code or byte code, as applicable and to use the Documentation. Customer shall be authorized to install the applicable licensed Software for application server clustering purposes only, on a single group of up to two (2) production servers with each server acting as a managed node within such group, so that, effectively, the application is deployed on a single logical system host comprised of two (2) managed node servers. Each such grouping of servers and/or nodes shall hereinafter be defined as a "Server Cluster". Customer acknowledges and understands that in the event it wishes to use the Software or Documentation for any purposes other than those expressly permitted by the foregoing, including, without limitation, clustering or load balancing, or to provide course materials or other content to any end users who are not Customer's Authorized End Users, Customer will be required to obtain additional license rights from Blackboard pursuant to a separately executed Schedule and payment of additional license fees.
- 2.2 **"General Usage Restrictions."** Customer agrees not to use the Software or Documentation for any purposes beyond the scope of the license granted in Section 2.1. Without limiting the foregoing, except as expressly contemplated in this Agreement or as otherwise agreed in writing between the Parties, Customer shall not (i) copy or duplicate the Software, provided that, notwithstanding the foregoing, Customer shall be permitted to create one (1) copy of the Software for archival, non-productive purposes provided that Customer reproduces on the copy all copyright notices and any other confidential or proprietary legends that are on or encoded in the Software; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which the Software is compiled or interpreted, and Customer hereby acknowledges that nothing in this Agreement shall be construed to grant Customer any right to obtain or use such source code; (iii) install or use the Software on any computer, network, system or equipment other than the Designated Server Site, except with the prior written consent of Blackboard; (iv) modify the Software or create any derivative product of the Software, except with the prior written consent of Blackboard, provided that the foregoing shall not be construed to prohibit Customer from configuring the Software to the extent permitted by the Software's standard user interface; (v) sublicense, assign, sell, lease or otherwise transfer or convey, or pledge as security or otherwise encumber, Customer's rights under the license granted in Section 2.1; or (vi) use the Software or Documentation to provide services to third parties other than Authorized End Users in the nature of a service bureau, time sharing arrangement or as an application service provider, as such terms are ordinarily understood within the software industry or for any other purpose. Customer will not obscure, remove or alter any of the trademarks, trade names, logos, patent, trademark, or copyright notices or markings to the Software, nor will Customer add any other notices or markings to the Software or any portion thereof except as permitted by the Software standard user interface. Customer shall not use the Software in violation of Blackboard's obligations to any third party incurred prior to the Effective Date, provided that Blackboard has notified Customer of such obligation. Customer shall not provide access to the Software or Documentation to anyone other than Authorized End Users without Blackboard's prior written consent; provided,

however, that Customer may provide access to *Blackboard PowerLinks*™ partners that are subject to a valid Blackboard developer's license agreement for the limited purpose of installing, maintaining and supporting their respective *Blackboard PowerLinks*™ applications. Customer shall ensure that its use of the Software and Documentation complies with all applicable laws, statutes, regulations or rules promulgated by governing authorities having jurisdiction over the Parties or the Software. Customer warrants that its Authorized End Users will comply with the provisions of this Schedule in all respects, including, without limitation, the restrictions set forth in this Section 2.2. Customer will take appropriate steps to ensure that it and its Authorized End Users do not share access information (including user identification data and passwords) with third parties except as expressly permitted under this Agreement. Under no circumstances shall Customer permit any third party to host the Software.

**2.3 Interoperability.** To the extent permitted by the specifications for the Software as outlined in the Documentation, if the Customer wishes to achieve interoperability of the Software with another software program and requires interface specifications or other information in order to do so, the Customer should request that information from Blackboard. Nothing in this Section 2.3 authorizes Customer to use any interfaces except the Supported Interfaces for the Software level. Customer may not use any Supported Interface in a manner that is inconsistent with the Documentation.

**2.4 Third Party Software/Content.** Customer acknowledges that the Software may utilize Third Party Software. Pursuant to its agreements with these third parties, Blackboard hereby grants to Customer a non-exclusive, non-transferable license to load and/or operate and use the Third Party Software solely in connection with the Software and Customer's own instructional activities.

**2.5 Further Restrictions.** Customer acknowledges that certain Blackboard Software contains an "Auto Report" feature, which provides to Blackboard aggregate usage statistics regarding the Software and Blackboard represents and warrants that the Auto Report feature does not report individually identifiable use information to Blackboard or any third party. Customer will not disable the Auto Report feature of the Software, or undertake any action which has the effect of preventing such feature from operating correctly or the effect of modifying the information reported thereby.

**2.6 Ownership of Software.** Blackboard and its licensors shall be deemed to own and hold all right, title and interest in and to the Software, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the Software not expressly granted by this Agreement, and Customer further acknowledges that Blackboard hereby reserves and retains all rights not expressly granted in this Agreement, including, without limitation, the right to use the Software for any purpose in Blackboard's sole discretion.

**2.7 Expansion of Licensed Use.** The Software is priced annually based upon Customer's FTE (as defined below). Customer represents and warrants that the FTE provided to Blackboard and set forth on the Pricing Summary is correct and accurate to the best of its knowledge, and agrees that it will inform Blackboard of any increase in its FTE prior to the beginning of any Renewal Term (as defined below). Blackboard will assess additional license fees for the Software for increases in Customer's FTE.

"FTE" or "Full Time Equivalent" is defined as the number of full-time students plus half of the part-time students. To the extent that Customer desires non traditional students, including without limitation, faculty, staff, alumni, continuing education students or participants in community outreach or non-degree bearing courses to utilize the Blackboard Software, the total number of such other users shall be communicated to Blackboard to be priced separately when the combined numbers of such other users exceeds ten percent (10%) of the total FTE number reported by Customer.

Blackboard's assessment of additional license fees will be in accordance with Blackboard's then-current pricing. In the event of growth related to a Customer merger or acquisition, Blackboard's assessment of additional license fees will be in accordance with Blackboard's then-current pricing.

### 3. DELIVERY

Unless otherwise agreed by the Parties, as soon as commercially practicable after the Schedule Effective Date, Blackboard will make available a copy of the Software for downloading from the Internet by Customer for purposes of installation by Customer. Customer acknowledges that the Software shall be activated for the Initial Term (as defined below) by a license key consisting of identification codes to be provided by Blackboard to Customer electronically promptly after receipt by Blackboard of Customer's IP address and operating system information. A new license key will be provided by Blackboard to Customer for each Renewal Term (as defined below) upon receipt by Blackboard of Customer's renewal notice for such Renewal Term. Initial delivery of the Software shall be deemed complete when Blackboard notifies Customer that the Software is available for download. Customer acknowledges that the download site will be made available to Customer for a period not longer than thirty (30) days from the date of such notice, and Customer will have no right to download the Software after this thirty (30)-day period.

### 4. FEES

In consideration for the services provided and license(s) granted in this Schedule with respect to the Initial Term (as defined below), Customer shall pay to Blackboard all fees specified in the Pricing Summary or otherwise required in this Schedule, which fees shall be non-cancelable and non-refundable. With respect to each Renewal Term (as defined below), if any, Customer shall pay to Blackboard the then-current fees for such services and licenses, which amounts shall be due and payable within thirty (30) days of the date of Blackboard's invoice for such Renewal Term. Customer further agrees to reimburse Blackboard for: (i) reasonable travel and living expenses incurred by Blackboard's employees and subcontractors in connection with the performance of maintenance and support services under this Schedule and; (ii) any other expenses described in this Schedule, provided that Blackboard will receive Customer's prior approval for single expenses greater than \$250, and further provided that, upon Customer's request, Blackboard will provide reasonable documentation indicating that Blackboard incurred such expenses. Except as otherwise required by this paragraph, all amounts payable under this Schedule shall be subject to applicable provisions of the Master Terms.

### 5. TERM

This Schedule shall become effective (i) when executed by authorized representatives of both Parties (the "Schedule Effective Date"); or (ii) the Effective Date of the Agreement, whichever later occurs, and shall continue in effect for a period of three (3) years (the "Initial Term"), unless earlier terminated. Thereafter, the Schedule will renew automatically upon the conclusion of each twelve (12) month period following the Schedule Effective Date for successive one (1)-year periods (each, a "Renewal Term"), unless either Party provides notice of its desire not to renew more than thirty (30) days prior to the end of the Initial Term or then-current Renewal Term, as applicable. Upon termination of this Schedule, all licenses granted under this Schedule shall immediately cease, and Customer will: (i) immediately discontinue all use of Software licensed under this Schedule; (ii) pay to Blackboard all amounts due and payable hereunder; (iii) remove the Software from its server and provide to Blackboard proof of the destruction of the original copy and any other copies of the Software; and (iv) return all Documentation and related training materials to Blackboard within a reasonable time at Customer's cost.

### 6. LIMITED SOFTWARE WARRANTY

Blackboard warrants, solely for the benefit of Customer, that any Software licensed under this Schedule which is manufactured by Blackboard will substantially conform to applicable Documentation for a period of ninety (90) days after the relevant Available Date, provided that: (i) Blackboard has received all amounts owed under this Agreement; (ii) Customer is not in material breach of this Agreement; (iii) Customer has installed any Corrections,



Upgrades and Updates made available to Customer; and (iv) Customer has notified Blackboard in writing of any failure of the Software to conform to the foregoing warranty within the warranty period. CUSTOMER ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES BY BLACKBOARD, AND THAT BLACKBOARD'S SOLE OBLIGATION, AND CUSTOMER'S SOLE REMEDY, WITH RESPECT TO ANY BREACH OF THE FOREGOING WARRANTY, IS REPAIR OR REPLACEMENT (AT BLACKBOARD'S OPTION) OF THE RELEVANT SOFTWARE IN A TIMELY MANNER.

**7. SUPPORT AND MAINTENANCE**

**Product Support.** Customer is eligible to receive Product Support from Blackboard as described in the Blackboard Customer Support Services Guide located on Blackboard's website at <http://library.blackboard.com/docs/support/supportsvcguid.pdf>.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date first written below.  
BLACKBOARD INC.

For the Representative of the  
CUSTOMER: UNIVERSITY OF IDAHO

\_\_\_\_\_  
Signature  
TESS FRAZIER- VICE PRESIDENT  
\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Signature  
CHRISTOPHER JOHNSON, Director, Contract  
\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date: 12-19-08



## Information Technology Services

PO Box 443155, Administration 140

University of Idaho

Moscow, ID 83844-3155

# FAX

<p>Blackboard, Inc. 650 Massachusetts Ave NW Washington, D.C. 20001 Phone 202.463.4860 Fax: 202.318.2619 ATTN: ASQuotes, CC Stephanie Workman</p>	<p><b>From:</b> Mary George, ITS Assoc Dir ITS – Admin Rm 136 Moscow, ID 83844-3155 Phone: (208) 855-5222 Fax: (208) 885-7539 Email: maryg@uidaho.edu</p>	<p>Date: 12/19/08 Number of Pages: (Including cover)</p>
<p><b>Remarks:</b></p> <p>Dear Ms. Workman, Attached is the signed agreement for Blackboard services for the University of Idaho based upon quotation dated 9/26/08—University of Idaho PO# P0018954.</p> <p>Please let me know if you need any additional information. Thank you,</p> <p>Mary L George</p>		

**Supplier:**

Blackboard Inc  
P O Box 200154  
Pittsburgh PA 15251-0154

PO Number: **P0050295**

Issue Date: **09/28/16**

Delivery Date: **09/29/16**
**Send Electronic Invoice to: apdocs@uidaho.edu**

**Send Paper Invoice to: University of Idaho  
Accounts Payable  
875 Perimeter Drive MS 4244  
Moscow, ID. 83844-4244**

**Ship to:** Margo Holthaus MS 3162  
University of Idaho  
875 Perimeter Drive  
Moscow ID 83844

Buyer

Crystal Christopherson

Terms

Net 30

Description

Quantity

Unit Cost

Total Cost

QUOTE RENEWAL 9/15/16-9/14/17  
PLEASE REFER ANY QUESTIONS TO:  
CRYSTAL CHRISTOPHERSON, BUYER  
PHONE 208-885-6126 OR EMAIL crystalch@uidaho.edu

1 CL-WC-FTE Bb Collaborate Web Conferencing  
Qty 1 - AS-HST-CS Blackboard Managed Hosting for  
Content Management  
Qty 1 - AS-HST-TEST Blackboard Managed Hosting  
Test Environment

1.00 EA

24,708.2200

24,708.22

2 CL-VT-FTE Bb Collaborate VoiceThread

1.00 EA

8,367.4400

8,367.44

3 AS-LAC-P Learn for Academic Collab

1.00 EA

41,443.1400

41,443.14

FOB: FOB Dest, Frt Prepaid &amp; Added

**TOTAL:** CONTINUED

**This order is exempt from Idaho State Sales Tax.**

Packing slip must accompany all shipments. Purchase Order number must appear on all packages, invoices, and correspondence. The University reserves the right to cancel this order if delivery is not made by agreed-upon delivery date. This agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. In all matters related to this agreement, the Contractor submits to the jurisdiction in the courts in Latah County, Idaho. The University of Idaho General Terms and Conditions are incorporated. To view the terms and conditions, please visit our website at [www.uidaho.edu/finance/controller/contracts-and-purchasing-services/vendor-information](http://www.uidaho.edu/finance/controller/contracts-and-purchasing-services/vendor-information). The University of Idaho is an affirmative action equal opportunity institution.

Signature

VENDOR COPY

**Supplier:**

Blackboard Inc  
P O Box 200154  
Pittsburgh PA 15251-0154

PO Number: **P0050295**

Issue Date: **09/28/16**

Delivery Date: **09/29/16**

Send Electronic Invoice to: **apdocs@uidaho.edu**

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Moscow, ID. 83844-4244**

Ship to: Margo Holthaus MS 3162  
University of Idaho  
875 Perimeter Drive  
Moscow ID 83844

Buyer

Crystal Christopherson

Terms

Net 30

Description	Quantity	Unit Cost	Total Cost
4 AS-HST-GOLDLS Blackboard Gold Hosting	1.00 EA	115,406.6300	115,406.63
5 AS-HST-STOR250GB Blackboard Managed Hosting Storage	1.00 EA	20,000.0000	20,000.00
6 MOB-BNDL-P Mobile Learn and Mobile Central	1.00 EA	27,628.7600	27,628.76
ADDL CHARGES:			.00

FOB: FOB Dest, Frt Prepaid &amp; Added

**TOTAL:** 237,554.19

**This order is exempt from Idaho State Sales Tax.**

Packing slip must accompany all shipments. Purchase Order number must appear on all packages, invoices, and correspondence. The University reserves the right to cancel this order if delivery is not made by agreed-upon delivery date. This agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. In all matters related to this agreement, the Contractor submits to the jurisdiction in the courts in Latah County, Idaho. The University of Idaho General Terms and Conditions are incorporated. To view the terms and conditions, please visit our website at [www.uidaho.edu/finance/controller/contracts-and-purchasing-services/vendor-information](http://www.uidaho.edu/finance/controller/contracts-and-purchasing-services/vendor-information). The University of Idaho is an affirmative action equal opportunity institution.

Signature

VENDOR COPY



# Blackboard

This Blackboard Order Form ("Order Form") by and between Blackboard (as defined below) and University of Idaho ("Customer") details the terms of Customer's use of the products and services set forth below ("Product and Pricing Summary"). This Order Form shall become effective on the Effective Date. This Order Form, together with the Blackboard Master Agreement located at <http://agreements.blackboard.com/bbinc/blackboard-new-master-agreement-all-products.aspx> and incorporated by this reference, form the entire agreement between the parties in respect of the products and services set forth in the Product and Pricing Summary. Notwithstanding anything to the contrary in any purchase order or other document provided by Customer, any product or service provided by Blackboard to Customer in connection with a purchase order related to this Order Form is conditioned upon Customer's acceptance of this Order Form and the Blackboard Master Agreement. Any additional, conflicting or different terms proffered by Customer in a purchase order or otherwise shall be deemed null and void. Each of the individuals executing this Order Form represent and warrant that he or she is authorized to execute the Agreement on behalf of Customer or Blackboard, as applicable. In consideration of the promises set forth herein, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereby agree as follows:

## A. Product and Pricing Summary

QTY	Product Name	Product or Service Description	2016 Renewal Term Period 1 Fees (USD) 9/15/16 to 9/14/17	2016 Renewal Term Period 2 Fees (USD) 9/15/17 to 9/14/18	2016 Renewal Term Period 3 Fees (USD) 9/15/18 to 9/14/19
1	CL-WC-FTE	Bb Collaborate Web Conferencing - includes 50 GB of storage for standard recordings and pre-load storage, 50GB of storage for MP4 recording conversion , and 10,000 annual MP4 views/downloads - 8001-15000	\$24,708.22	\$25,325.70	\$25,958.84
1	CL-VT-FTE	Bb Collaborate VoiceThread - up to 1,500 seats	\$8,367.44	\$8,576.63	\$8,791.05
	AS-LAC-P	Learn for Academic Collab Blackboard Course Delivery - 8,001 - 15,000 FTE Blackboard Community Engagement - 8,001 - 15,000 FTE Blackboard Content Management - 8,001 - 15,000 FTE	\$41,443.14	\$42,479.22	\$43,541.19
1	AS-HST-GOLDLS	Blackboard Gold Hosting - 8,000 active users	\$115,406.63	\$118,288.72	\$121,245.93
1	AS-HST-CS	Blackboard Managed Hosting for Content Management	\$0.00	\$0.00	\$0.00
1	AS-HST-TEST	Blackboard Managed Hosting Test Environment	\$0.00	\$0.00	\$0.00
1	AS-HST-STOR250GB	Blackboard Managed Hosting Storage 250GB	\$20,000.00	\$20,000.00	\$20,000.00
1	MOB-BNDL-P	Mobile Learn and Mobile Central Blackboard Mobile Learn - 8,001 - 15,000 FTE Blackboard Mobile Central - 8,001 - 15,000 FTE	\$27,628.76	\$28,319.48	\$29,027.46
<b>TOTAL:</b>			<b>\$237,554.19</b>	<b>\$242,989.75</b>	<b>\$248,564.50</b>


## B. Term

- 2016 Renewal Term: Unless otherwise specified in the Product or Service Description above, the Initial Term shall be three (3) years following the Effective Date.
- Unless otherwise specified in the Product or Service Description above, this Order Form shall be renewed automatically for successive periods of one (1) year (each a "Renewal Term") after the expiration of the 2016 Renewal Term and any subsequent Renewal Term, unless Customer provides Blackboard, or Blackboard provides Customer, with a written notice to the contrary thirty (30) days prior to the end of the 2016 Renewal Term or Renewal Term, as applicable.
- Effective Date: September 15, 2016.

## C. Payment Terms

- All initial and subsequent payments shall be due Net 30. Unless otherwise specified, all dollars (\$) are United States currency.
- Sales Tax: If applicable, a copy of your Sales Tax Direct Pay Certificate or your Sales Tax Exemption Certificate must be returned with this Order Form.

## D. Special Provisions

Customer: University of Idaho	Blackboard ("Blackboard")
Signature 	Signature
Name (printed) <b>Doug Vandenboom</b>	Name <b>BILL JONES</b>
Title (printed) <b>Asst. Director, Contracts &amp; Purchasing Svcs</b>	Title <b>ASSOCIATE GENERAL COUNSEL</b>
Date <b>9/29/2016</b>	Date

If Customer previously purchased Products and/or Services with Blackboard, unless expressly stated in the Order Form of this Agreement, Customer's prior agreement(s) governing such products and/or services shall continue in effect with regard to such products and/or services, and this Agreement shall govern the Products and Services reflected in the Order Form above.