

WebCT Order Form - Institution-Hosted Licenses

| | | | | |
|---------------------|-------------|---------------------------------------|----------------|-------------------------------|
| Date of Order: | Aug. 2000 | Licensee's Name: | The University | Alabama-Seebeck Computer Ctr. |
| Existing License #: | 13051 | Tax Exemption ID#: | | |
| WebCT Salesperson: | David Jones | Order Source (SCT, WebCT, Publisher): | | |

Check Below License Activity to Perform:

| | | | |
|--------------|--|----------|--------------------|
| New License: | Renewal: <input checked="" type="checkbox"/> | Upgrade: | Renewal & Upgrade: |
|--------------|--|----------|--------------------|

Check Below Customer Type:

| | | | | |
|---|-------|------------|--------------------|------------------|
| Higher Education: <input checked="" type="checkbox"/> | K-12: | Corporate: | Government Agency: | Other Nonprofit: |
|---|-------|------------|--------------------|------------------|

Primary Licensee Contact

| | |
|-----------------------------------|------------------------------------|
| Contact Name: Lennie Schmandt | Contact Name: Sherry Harvey |
| Title: Director-Faculty Res. Ctr. | Title: PC Network Admin. |
| Department: Faculty Resource Ctr. | Department: PC & Network Support |
| Address 1 Seebeck Computer Center | Address 1: Seebeck Computer Center |
| Address 2 Box 870346 | Address 2: Box 870346 |
| City: Tuscaloosa | City: Tuscaloosa |
| State: AL | State: AL |
| ZIP/Postal Code: 35487 | ZIP/Postal Code: 35487 |
| Country: USA | Country: USA |
| Phone #: 205.348.6095 | Phone #: 205.348.9809 |
| Fax #: 205.348.3993 | Fax #: 205.348.3993 |
| Email: lennie@frc.ua.edu | Email: sharvey@seebeck.ua.edu |

Licensee's Server Information Required

| | |
|---------------------------|---------------|
| IP Address # of Server: | 130.160.4.114 |
| Port #: | 8900 |
| Server Operating System: | Solaris VII |
| Server Hardware Type: SUN | |

License Information

| | | |
|-----------------------------------|-------------|--|
| Customer's Purchase order number: | PQH744 | Credit Card Payment Information - MasterCard & Visa Accepted |
| Software version #: | VII | Credit Card Type: |
| Student seats licensed: | unli | Credit Card Number: |
| Length of license: | annual | Name on Credit Card: |
| License start date: | Aug 5, 2000 | Card Expiration Date: |
| License end date: | Aug 4, 2001 | |

All Licenses include Standard Support, which allows one system administrator access to WebCT email and toll-free phone support in North America.

Designated WebCT System Administrator: Lennie Schmandt Department:

**System Administrator
Contact Information**

| | |
|---------------------|-----------------|
| Address/City/State: | (Same as above) |
| ZIP/Postal Code: | Country: |
| Email: | |
| Phone: | Fax: |

Cost of WebCT License (Licensee Hosts on Own Server)

Reference # of student seats with term duration for cost of WebCT license.

Additional Support Requested. (Note: restricted to educational licenses only)

Additional System Administrators: X \$500 each (include all contact info on attached page) =
Additional Faculty Support: for all faculty for this license type =

Total Contract Cost (License Fee + Additional Support Fees)

Are you interested in: Training? Consulting?

Figures above are in United States Dollars-Sales Tax: All applicable sales taxes will be charged upon invoicing-Payment Due 30 Days from Order Fulfillment

I agree that the above information is correct and authorize this purchase.

WebCT

| | | | |
|---|----------------------------|---|-----------------------------|
| By: <input type="text"/> (Signature) | Date: <input type="text"/> | By: <input type="text"/> (Signature) | LICENSEE Date: 8-10-2000 |
| Name (Please Print) | | Name (Please Print) | |

For WebCT Use Only:

| | |
|--|---|
| Date License Request Received: <input type="text"/> | For WebCT hosted courses, date URL forwarded: |
| Date Payment Received: <input type="text"/> | Date support email address / toll free # forwarded: |
| Date License Key set to Customer: <input type="text"/> | |

Additional System Administrator Information
(if applicable - based on purchased additional system administrators)

System Administrator 1

Name: Lennie Schmandt
Title: Director - Faculty Resource Center
Department: Seebeck Computer Center
Address: Box 870346
City: Tuscaloosa
State: AL
ZIP/Postal Code: 35487-0346
Country: USA
Phone: 205.348.6095
Fax: 205.348.3993
Email: lennie@frc.ua.edu

System Administrator 2

Name:
Title:
Department:
Address:
City:
State:
ZIP/Postal Code:
Country:
Phone:
Fax:
Email:

System Administrator 3

Name:
Title:
Department:
Address:
City:
State:
ZIP/Postal Code:
Country:
Phone:
Fax:
Email:

System Administrator 4

Name:
Title:
Department:
Address:
City:
State:
ZIP/Postal Code:
Country:
Phone:
Fax:
Email:

WebCT Master Agreement

This Master Agreement (the "Agreement") is made between WebCT, Inc., a Delaware corporation with its principal place of business at 6 Kimball Lane, Lynnfield, Massachusetts 01940 ("WebCT"), and _____, a _____ corporation with its principal place of business at _____ ("Licensee"). This Agreement establishes the terms under which WebCT will license certain of its software products and provide support and other software related services to Licensee. This Agreement consists of this Signature Cover Page, the Standard Terms and Conditions, the WebCT Order Summary Form (Schedule I below) and the other attached Schedule(s) noted below.

ATTACHED SCHEDULES:

- Schedule I - WebCT Order Summary with Payment Schedule
- Schedule II - WebCT Support including Basic Support SLA
- Schedule II a - Premium Support SLA
- Schedule II b - Faculty Support SLA
- Schedule III - Training and/or Consulting Services
- Schedule IV - WebCT Hosted Courses

| Yes | No |
|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> |

Address for Notices:

WebCT, Inc.
6 Kimball Lane
Lynnfield, MA 01940

Fax: _____
Phone: _____
Attn: _____
Title: _____

Address for Notices:

Licensee: The University of Alabama
Campus: Seebeck Computer Ctr.
Address: Box 870346-Tuscaloosa, AL 35487-034
Fax: 205.348-3993
Phone: 205.348-9809
Attn: Sherry Harvey
Title: DC/Network Analyst

Each party has caused this Agreement, which includes, this Signature Cover Page, the Standard Terms and Conditions, the WebCT Order Summary Form (Schedule I above) and the other attached Schedule(s) noted above to be executed by its duly authorized representative as of the Effective Date.

WebCT:

By: _____
(Signature)

Name: _____

Title: _____

Date: _____
(the "Effective Date")

Licensee: _____

By: _____
(Signature)

Name: _____

Title: _____

O'ane w
First me
Signed copies

WEBCT STANDARD TERMS AND CONDITIONS

In consideration of the mutual promises and upon the terms and conditions set forth below, the parties, identified on Signature Cover Page, agree as follows:

1. DEFINITIONS

1.1 WebCT Software. "WebCT Software" shall mean the WebCT Software and any embedded runtime programs of WebCT's licensors, in object code format only, including all copies in whole or part, backups, related documentation and user manuals, information relating to the software programs, printed listings of code, and any patches, bug fixes, workarounds, upgrades, enhancements and updates subsequently provided by WebCT pursuant to the terms of this Agreement.

1.2 Materials. "Materials" shall mean WebCT materials distributed to, or available for online access by, Licensee pursuant to Section 8 of this Agreement for training or implementation purposes, including without limitation, instructor and custom handouts and online course templates.

1.3 Server Cluster. "Server Cluster" shall mean one or more independent servers managed as a single system in order to balance application load across the servers at the Campus location designated on the Signature Cover Page.

1.4 Services. "Services" shall mean those WebCT services elected to be received by Licensee and provided by WebCT pursuant to the terms of this Agreement.

1.5 User. "Users" shall mean those persons authorized to use the WebCT Software, designated by Licensee in the WebCT Order Summary Form and for whom a license fee has been paid.

2. GRANT OF LICENSE

2.1 License Grant. Subject to the terms and conditions of this Agreement, WebCT hereby grants to Licensee for the term of this Agreement, a nonexclusive, nontransferable license under WebCT's intellectual property rights to use the WebCT Software for Licensee's normal academic and administrative functions and community responsibilities, for which license fees have been paid pursuant to the WebCT Order Summary Form. Licensee shall use its good faith reasonable efforts to notify Users of the existence of this license Agreement and the license restrictions. This is a license agreement and not an agreement for sale. All rights not specifically granted shall be reserved to WebCT.

2.2 Delivery; Updates. WebCT shall deliver electronically to Licensee one copy of the WebCT Software

and documentation related thereto, if any, or provide access to the WebCT Software hosted by WebCT via the Internet, promptly after the Effective Date. WebCT shall also make available to Licensee either by electronic download or via the Internet one copy of updates, if any, made generally available by WebCT to other Licensees at no charge.

2.3 Compliance. Semi-annually, Licensee shall provide WebCT with a written statement, certified by an authorized representative of Licensee, listing the number of faculty Users, student Users and administrative Users, the number of servers within the designated Server Cluster that are using the WebCT Software, and a list of all the courses for which the WebCT Software is being used, and stating that the use of the WebCT Software has been reviewed and that each copy of the WebCT Software is being used solely pursuant to the provisions of this Agreement. WebCT will have the right to conduct and/or direct an independent accounting firm to conduct, during normal business hours, an audit of the appropriate records of Licensee to verify the number of copies of the WebCT Software in use, the computer systems on which such copies are installed and the number of Users.

2.4 Copies. If Licensee receives delivery of the WebCT Software for local hosting, Licensee may make additional copies of the WebCT Software (i) for Licensee's internal business purposes in relation to the number of Users and number of servers within the designated Server Cluster for which license fees have been paid; and (ii) for archival and back-up purposes.

2.5 License Fee. In consideration of the license granted in this Agreement, Licensee agrees to pay WebCT the license fee specified in the WebCT Order Summary Form according to the payment terms therein. In consideration of any license term extensions agreed upon in advance by both parties, Licensee agrees to pay WebCT the applicable additional license fees also on such payment terms.

3. LICENSE RESTRICTIONS

3.1 Restrictions. Licensee shall not modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the WebCT Software, except to the extent expressly permitted by applicable law and to the extent the parties shall not be permitted by that applicable law to exclude or limit such rights. Information relating to the WebCT Software necessary to enable the production of interoperable software shall be available from WebCT on request. Licensee may only use the embedded runtime programs of WebCT's licensors with and as a part of the WebCT Software and is prohibited from using such embedded runtime programs for application development purposes or otherwise outside the scope defined in Section 2.1 of this Agreement.

3.2 Third Parties. Licensee shall not (i) host the WebCT Software for access by any non-User; (ii) rent, lease, sublicense, or otherwise distribute the WebCT Software to any third party; (iii) offer the WebCT Software in connection with timesharing, facility management, or service bureau usage; or (iv) use the WebCT Software to develop or modify applications or perform other programming tasks on behalf of Licensee or any third party.

4. INTELLECTUAL PROPERTY RIGHTS

4.1 Ownership. Licensee acknowledges that the WebCT Software, and all trade secret, copyright, patent, trademark, trade name and other intellectual and proprietary rights therein, are and at all times shall remain the valuable property of WebCT and its licensors, or their respective successors or assignees.

4.2 Proprietary Markings. Licensee agrees to respect and not to alter, remove or conceal any copyright, trademark, government restricted rights, trade name or other proprietary marking that may appear on the WebCT Software.

5. WARRANTY AND DISCLAIMER

5.1 Warranty. WebCT warrants that the then current version of the WebCT Software shall operate substantially in accordance with the then current User manual generally released by WebCT to its Licensees, provided that the Licensee uses the WebCT Software in accordance with the manual and does not modify or otherwise alter the WebCT Software.

5.2 Sole Remedy. In the event the WebCT Software fails to perform as warranted above and Licensee advises WebCT in writing of a reproducible error, WebCT shall use commercially reasonable efforts to correct any defect in the WebCT Software. In the event that WebCT is unable to correct a defect, Licensee may obtain a pro rata refund of any prepaid license fees for the WebCT Software so affected. This Section 5.2 sets forth Licensee's sole remedy, and WebCT's sole obligation, relating to performance of the WebCT Software and for breach of the warranty in Section 5.1.

5.3 Disclaimer. EXCEPT FOR THE WARRANTY IN SECTION 5.1, THE WEBCT SOFTWARE AND THE SERVICES ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION, ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, AGAINST INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. WEBCT

SPECIFICALLY DOES NOT WARRANT THAT THE WEBCT SOFTWARE SHALL MEET ALL OF LICENSEE'S REQUIREMENTS OR SHALL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY LICENSEE; THAT THE OPERATION OF THE WEBCT SOFTWARE SHALL BE ERROR-FREE OR UNINTERRUPTED; OR THAT ALL ERRORS OR DEFECTS IN THE WEBCT SOFTWARE SHALL BE CORRECTED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THAT THE ABOVE EXCLUSIONS MAY NOT APPLY TO LICENSEE. THIS WARRANTY GIVES LICENSEE SPECIFIC LEGAL RIGHTS. LICENSEE MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

6. LICENSE KEYS

6.1 License Keys. Licensee acknowledges that the Software needs to be activated by identification codes. Licensee shall receive its license key through WebCT's website using the unique license number provided to Licensee upon shipment.

7. LIMITATION OF LIABILITY

7.1 Limitation of Liability. It is expressly agreed that each party's maximum liability for damages to the other party hereunder, regardless of the form of legal action, whether in contract or in tort, including negligence, shall in no event exceed the actual payments received by WebCT for the WebCT Software or the Services that caused such damage, except that no such limitation on damages shall apply to losses due to Licensee's breach of the license or license restrictions.

7.2 No Consequential Damages. IN NO EVENT SHALL EITHER PARTY OR WEBCT'S LICENSORS BE LIABLE UNDER THIS AGREEMENT FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, OR, IF REASONABLY FORESEEABLE, INCURRED BY THE OTHER PARTY OR CLAIMED AGAINST THE OTHER PARTY BY ANY OTHER PARTY, EXCEPT THAT NO SUCH LIMITATION ON CONSEQUENTIAL DAMAGES SHALL APPLY IN THE EVENT OF A BREACH BY LICENSEE OF THE LICENSE OR LICENSE RESTRICTIONS.

8. SERVICES

8.1 Services. In connection with the implementation and use of the WebCT Software by Licensee, WebCT may provide Services to Licensee at the rates specified in the WebCT Order Summary Form and in the other applicable

Schedules hereto under the terms and conditions of this Agreement.

8.2 Cancellation of Services. Licensee shall have the right to cancel any Services by giving written notice. If Licensee shall give at least ten (10) business days advanced written notice, no fees will be due. If Licensee shall give between six (6) and nine (9) business days advanced written notice, fifty percent (50%) of the Services fees will be due. If Licensee shall give five (5) business days or less advanced written notice, one hundred percent (100%) of the Services fees will be due. For any cancellation under this Section, Licensee shall pay any non-refundable expenses under Section 8.3 below incurred in planning the Services on behalf of Licensee.

8.3 Reimbursement. Licensee shall pay or reimburse to WebCT all reasonable travel, accommodation and other out-of-pocket expenses incurred by WebCT, its employees and consultants in connection with WebCT's provision of Services under this Agreement.

8.4 Rights as to Materials and Services. The Materials may not be reproduced or distributed without the express written consent of WebCT. Licensee acknowledges that the Materials, and all copyright and other intellectual and proprietary rights therein, are and at all times shall remain the valuable property of WebCT and its licensors, or their respective successors or assignees. Licensee agrees to respect and not to alter, remove or conceal any copyright, trademark, trade name or other proprietary marking that may appear on the Materials. In addition, Licensee may not record by any means the words or actions of any WebCT representative while providing Services without the express written consent of WebCT.

8.5 Ownership of Intellectual Property. WebCT will own and Licensee hereby assigns to WebCT all right, title, and interest in the copyright, patent, mask works and all other intellectual property rights that may be conceived, reduced to practice, created or developed by WebCT in the performance of Services under this Agreement.

8.6 Future Activities. Licensee acknowledges that WebCT and its employees, consultants or subcontractors may from time to time perform services for others or incorporate functionality in its WebCT Software that are similar or identical to Services performed for or a deliverable created for Licensee under this Agreement. So long as no Confidential Information of Licensee is disclosed, WebCT shall not be restricted in any way from developing or providing to others software, forms, materials, methodologies, modifications or services which are similar or identical to Services performed for, or deliverables created for, Licensee hereunder, or be restricted in its use of personnel providing Services hereunder.

8.7 Payment for Services. Services will be billed upon delivery, and all invoices for Services and expenses will be payable upon receipt. WebCT reserves the right to discontinue the provision of any and all Services if payment is not received in accordance with the WebCT Order Summary Form or the other applicable Schedules hereto.

8.8 Compensation Upon Termination of Services. In the event of any termination of Services prior to completion, payment shall immediately be due for performance rendered up to the effective date of such termination, including expenses.

9. TERM; TERMINATION

9.1 Term. This Agreement shall be effective from the Effective Date and shall continue for one year, unless earlier terminated in accordance with the provisions of this Section 9. This Agreement may be renewed for additional one-year terms on the mutual agreement of the parties; upon payment of the applicable license fee for each renewal, WebCT shall provide Licensee a license key.

9.2 General. Upon any breach by Licensee of Sections 2.1 or 3, WebCT shall have the right, upon notice, to immediately terminate this Agreement and the licenses granted hereunder. Upon any material breach or default of this Agreement by either party, the other party shall have the right to terminate this Agreement and the licenses granted hereunder effective on thirty (30) days' notice; such termination shall become automatically effective unless the breaching or defaulting party shall have cured any material breach or default prior to the expiration of the thirty (30) days' period.

9.3 Consequences. In the event of termination of this Agreement for any reason, Licensee shall promptly (i) discontinue all use of the WebCT Software; (ii) erase or destroy any WebCT Software contained in the computer memory or data storage apparatus under the control of Licensee; (iii) return to WebCT or destroy all copies of the WebCT Software provided by WebCT in Licensee's possession; and (iv) certify in writing to WebCT, within thirty (30) days of termination of this Agreement that Licensee has complied with the foregoing.

9.4 Survival. Sections 1, 3, 4, 7, 8.4, 8.5, 8.6, 8.8, 9.3, 9.4, 10 and 11 hereof shall survive expiration or any termination of this Agreement.

10. CONFIDENTIAL INFORMATION

10.1 Confidential Information. Each party acknowledges that it shall have access to certain confidential information of the other party, including without limitation, the WebCT Software, the Services and the Materials ("Confidential Information"). Each party agrees that it shall use such Confidential Information only in

the performance of this Agreement, shall not disclose such Confidential Information to any third party (except as required by law or to that party's attorneys, accountants or other fiduciary advisors as reasonably necessary), and shall take reasonable precautions to protect the confidentiality of such Confidential Information. Such reasonable precautions shall include, but not be limited to, disclosing Confidential Information only to those employees who have a need to have access solely for the performance of this Agreement and taking appropriate measures by instruction and agreement prior to disclosure to such employees to assure against unauthorized use or disclosure.

10.2 Exclusions. Confidential Information shall not include information that: (i) is rightfully received by the receiving party from a third party without an obligation of confidentiality; (ii) is required to be disclosed by a judicial or governmental order, in which case the receiving party shall promptly notify the disclosing party and take reasonable steps to assist in contesting such order or in protecting the disclosing party's rights prior to disclosure; or (iii) was publicly known at the time of disclosure to receiving party or becomes publicly known through no act or omission of the receiving party.

10.3 Return. Except to the extent Confidential Information shall be necessary to perform the receiving party's obligations hereunder, the disclosing party may at any time request that the receiving party return all or any Confidential Information in its possession or under its control and not make or retain any copies, summaries or notes.

11. GENERAL

11.1 Provision of Notice. Any notice that is required to be given hereunder shall be in writing and delivered by courier service or mailed by pre-paid registered mail addressed to the parties' respective addresses as provided on the Signature Cover Page. Any such notice so delivered shall be deemed to have been received by the addressee at the time and date when actually delivered or in any event within ten (10) days after sending in the manner provided herein. The addresses provided herein may be changed at any time on prior written notice.

11.2 Assignment. Licensee shall not assign any rights or obligations arising under this Agreement. This Agreement shall be binding on the successors and assigns of WebCT.

11.3 Waiver. The failure of either party to enforce in any one or more instances any of the terms and conditions of this Agreement shall not be construed as a waiver of future performance of any such term or condition. Waiver of any term or condition shall only be deemed to have been made if expressed in writing by the party granting such waiver.

11.4 Severability. If any provision of this Agreement shall be held by a court of law of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be reformed, construed and enforced to the maximum extent permissible, and the remaining provisions shall remain in full force and effect.

11.5 Governing Law. The parties to the Agreement agree that this Agreement will be governed by, interpreted, and construed in accordance with the laws of the Commonwealth of Massachusetts. Each of the parties hereby irrevocably submits to the exclusive venue and jurisdiction of any federal or state court sitting in Boston, Massachusetts in any action, suit or proceeding brought against it by the other party under this Agreement. The UN Convention on Contracts for the International Sale of Goods will not apply.

11.6 Entire Agreement. This Agreement consists of the Signature Cover Page, the Standard Terms and Conditions, the WebCT Order Summary Form and the other attached Schedules which collectively constitute the entire understanding between the parties, and supersede all prior discussions, representations, understandings or agreements, whether oral or in writing, between the parties with respect to the subject-matter of this Agreement. The subject matter of this Agreement is limited to the rights expressly granted herein. The terms of this Agreement shall have no force and effect with respect to any claim based on the use of the WebCT Software outside the scope of the licenses and rights expressly granted herein. The preprinted provisions of Licensee's purchase order for the WebCT Software licensed hereunder shall not apply, and the provisions set forth herein shall prevail. In the event of any conflict between the terms of these Standard Terms and Conditions and those terms set forth on the Signature Cover Page, the WebCT Order Summary Form or any other Schedule, the terms of these Standard Terms and Conditions shall prevail. Any modification or amendment to this Agreement including the Signature Cover Page, the Standard Terms and Conditions, the WebCT Order Summary Form and the other Schedules must be in writing and signed by authorized representatives of both parties.

11.7 U.S. Government Restricted Rights. In the event that Licensee is an agency of the United States Government, or that the license granted hereunder is pursuant to a contract with either a defense or civilian agency of the United States Government, Licensee agrees that the WebCT Software is provided with restricted rights. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software Restricted Rights clause at 48 CFR 52.227-19, as applicable, or in successor provisions, as well as the

limitations set forth herein. Manufacturer is WebCT, Inc., 6 Kimball Lane, Lynnfield, Massachusetts 01940.

11.8 Export Control. Licensee acknowledges that it is subject to United States laws and regulations controlling the export of technical data, computer software and other commodities and agrees not to export or allow the export or re-export of such data, software or other commodities in violation of such laws and regulations.

11.9 Independent Contractors. The parties to this Agreement are and shall remain independent contractors. Nothing herein shall be construed to create a partnership or joint venture between them, and neither shall have the power or authority to bind or obligate the other in any manner not expressly set forth herein.

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SCHEI - WEBC ORDER SUMMARY

| | | | |
|------------------|-----------------------|----------------------------------|--------------------------|
| Date of Order: | 7/6/01 | Institution # (from Sales Logix) | |
| Institution Name | University of Alabama | Tax Exempt # | (copy of certif. req'd.) |
| WebCT Rep: | David Jones | Customer PO # | (Hard Copy Required) |

Updated 7/6/01

| | | | |
|--|--|---|---|
| Type of Order - check all activities to be processed | | | |
| <input type="checkbox"/> New license <input checked="" type="checkbox"/> Renewal | <input type="checkbox"/> Upgrade <input type="checkbox"/> Support | <input type="checkbox"/> Services <input type="checkbox"/> Migration | |
| WebCT Market - check one | | | |
| <input checked="" type="checkbox"/> Higher Ed <input type="checkbox"/> K12 | <input type="checkbox"/> Corporate <input type="checkbox"/> Gov't | <input type="checkbox"/> International <input type="checkbox"/> Other | |
| Type of Order - Standard Edition | | <input checked="" type="checkbox"/> | Campus Edition <input type="checkbox"/> |
| Primary WebCT Licensee Contact Contact Name: Lennie Schmandt Title: Director - Faculty Resource Ctr. Department: Seebeck Computer Ctr. Address 1: Box 870346 Address 2: City: Tuscaloosa State: Alabama Zip Code: 35487 Country: USA Phone #: 205.348.6095 Fax #: 205.348-3993 Email: lennie@tre.ua.edu | | | |
| Primary Licensee Billing Contact Contact Name: Sherry Harvey Title: PC/Network Analyst Department: Seebeck Computer Center Address 1: Box 870346 Address 2: City: Tuscaloosa State: Alabama Zip Code: 35487 Country: USA Phone #: 205.348-9809 Fax #: 205.348-9809 Email: sharvey@seebeck.ua.edu | | | |
| Information Required for INSTITUTION HOSTED LICENSES ONLY | | | |
| IP Address # of Server: | 136.160.4.114 | Student seats licensed: | unlimited |
| Port #: | 8900 | License start date: | Aug. 5, 2001 |
| Server Operating System: | Solaris VII | License end date: | Aug. 4, 2002 |
| Software Version #: | VII | | |
| Information Required for WEBCT HOSTED LICENSES ONLY | | | |
| Student seats licensed: | | ALL COURSE INFORMATION SHOULD BE INCLUDED IN SCHEDULE IV- WEBCT HOSTED COURSES | |
| Information Required for WEBCT SERVICES ONLY SALES (If different from primary contact above) | | | |
| Primary Services Contact Name: | | Services Billing Contact Name: (if different) | |
| Title & Dept.: | | Title & Dept.: | |
| Address: | | Address: | |
| City: | | City: | |
| State/Zip | | State/Zip | |
| Credit Card Payment Information: MasterCard and Visa Accepted Credit Card Type: _____ Credit Card Number: _____ Name on Credit Card: _____ Card Expiration Date (day / month / yr): _____ | | | |
| WebCT License Price..... | | Fill in total manually <input style="width: 20px; border: 1px solid black;" type="text"/> \$5,000 | |
| Support Purchase Price..... | | Total rolled up from schedule II-Supp <input style="width: 20px; border: 1px solid black;" type="text"/> \$0 | |
| Training and/or Consulting Purchase Price | | Total rolled up from schedule III-Serv <input style="width: 20px; border: 1px solid black;" type="text"/> \$0 | |
| Total Contract Amount = (WebCT License Fees, Support Fees, &/or Training/Consulting Fees) <input style="width: 20px; border: 1px solid black;" type="text"/> \$5,000 | | | |
| Bundled Total Price (apply eligible discount)..... | | Fill in total manually <input style="width: 20px; border: 1px solid black;" type="text"/> \$5,000 | |
| Scroll down to next page to view payment terms and schedule. NOTE: All prices are in USD. | | | |

PAYMENT TERMS AND SCHEDULE FOR THIS ORDER CONTRACT

Updated 7/6/01

Please check one: Standard contract (invoice upon receipt of order)

Multi-year contract payment schedule

Number of Years of contract: _____
(Refer to Payment Schedule below)

Bill Services upfront (billed upon delivery unless noted here)

Payment and License Period Schedule:

PAYMENT 1:

Payment to be made: \$ _____
for the period of the _____ of _____, 200_____.
through the _____ of _____, 200_____.

PAYMENT 2:

Payment to be made: \$ _____
for the period of the _____ of _____, 200_____.
through the _____ of _____, 200_____.

PAYMENT 3:

Payment to be made: \$ _____
for the period of the _____ of _____, 200_____.
through the _____ of _____, 200_____.

PAYMENT 4:

Payment to be made: \$ _____
for the period of the _____ of _____, 200_____.
through the _____ of _____, 200_____.

PAYMENT 5:

Payment to be made: \$ _____
for the period of the _____ of _____, 200_____.
through the _____ of _____, 200_____.

WebCT Order Schedule

Licensee: University of Alabama, The



| <u>Description</u> | <u>Price</u> | <u>Quantity</u> | <u>Extended</u> |
|--|------------------|-----------------|-----------------|
| Campus Edition Institution - 25000 FTE | \$ 30,000.00 | 1 | \$30,000.00 |
| Start Date: 8/7/02 | End Date: 8/6/03 | | |
| Grand Total: | | | \$30,000.00 |

If WebCT Campus Edition and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for Campus Edition between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If WebCT Vista and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

LICENSEE:

By: Reba J. Essary
(Authorized Signature)

Name: _____ Reba J. Essary _____
Associate Vice President _____
Title: _____ for Finance _____
Date: _____

WEBCT, INC.

By: Carol Wallen
(Authorized Signature)

Name: CAROL WALLEN
Title: President & CEO
Date: 8/20/02

SOFTWARE LICENSE AGREEMENT FOR WEBCT CAMPUS EDITION

(Annual or Subscription)



Licensee Name: _____

Licensee Address: _____

WebCT, Inc., a Delaware corporation with its principal place of business at Six Kimball Lane, Lynnfield, Massachusetts 01940 ("WebCT"), and the licensee named above ("Licensee") agree that the terms and conditions stated herein shall apply to (i) the Campus Edition software program(s) set forth in any fully-executed Order Schedule (the "Order Schedule") to this Software License Agreement (the "Agreement"), including any programs of WebCT's licensors that are delivered by WebCT with or as part of the WebCT Campus Edition software, and any and all copies, in whole or in part, backups, related documentation, system administrator guides and user manuals, printed listings of code, and any patches, bug fixes, workarounds, upgrades, enhancements, and updates which may be subsequently furnished by WebCT to Licensee hereunder (collectively, the "Software") and (ii) any Support Services (as defined in Section 8.1) relating to the Software provided by WebCT to Licensee. In consideration of the mutual promises contained herein, the parties agree as follows:

1. GRANT OF LICENSE

1.1 License Grant. Upon execution by the parties of this Agreement and an initial Order Schedule to this Agreement and subject to payment by Licensee of the applicable license fee set forth in such Order Schedule and the terms and conditions of this Agreement, WebCT hereby grants to Licensee, during the License Term (as defined below) or any renewal thereof under Section 2.2, a nonexclusive, nontransferable license ("License") to use and copy the Software set forth therein in object code format only for Licensee's academic and administrative purposes, including any Licensee-controlled and Licensee-delivered adult education or community outreach programs. This is a license agreement and not an agreement for sale. All rights not specifically granted shall be reserved to WebCT.

1.2 Use. Each License authorizes the installation and use of the Software on a single production server at the Licensee location designated in writing to WebCT at the time the applicable Order Schedule is executed (the "Designated Location") and a single additional non-production server for internal testing purposes only. Additionally, each License authorizes use of the Software only by Licensee's students, faculty, administrators, other employees, and/or contractors whose responsibilities require such access ("Users"), subject to the full-time equivalent enrollment level ("FTE Level") identified to WebCT by Licensee or, if applicable, up to the maximum number of Seats or Students (as defined below) specified in the applicable Order Schedule. For purposes of this Agreement, (i) a "Seat" is defined as access to the Software by a single student in connection with a single course (e.g. access to the Software by the same student in connection with two courses constitutes two Seats) and (ii) a "Student" is defined as an individual registered at any one time in one or more Licensee-delivered courses (e.g. an individual who is registered in two courses shall constitute one Student). Use of the Software is not permitted (a) for productive use on other than the single production server identified to WebCT, unless otherwise agreed upon in writing by WebCT, (b) at a location other than the Designated Location, or (c) by more than the maximum number of Seats or Students (if applicable) specified in the applicable Order Schedule.

1.3 Delivery; Updates. WebCT shall deliver electronically to Licensee one copy of the Software and related documentation, if any, or provide access to the Software via the Internet promptly after the date on which the applicable Order Schedule is signed by the parties and all necessary IP address and operating system information has been

provided by Licensee to WebCT. WebCT shall also make available to Licensee, either by electronic delivery or via the Internet, one copy of updates, if any, made generally available by WebCT to other licensees at no additional charge.

1.4 License Keys. Licensee acknowledges that the Software shall be activated by a license key consisting of identification codes which shall be provided to Licensee electronically promptly after receipt by WebCT of Licensee's IP address and operating system information.

1.5 Compliance. Upon WebCT's written request (which shall occur no more than once every six months), Licensee shall provide WebCT with a written statement, certified by an authorized representative of Licensee, listing the number of Seats or Students (if applicable) having access to the Software, the number of servers on which the Software is installed, and stating that the use of the Software has been reviewed and that each copy of the Software is being used solely pursuant to the provisions of this Agreement. WebCT, at its expense, will have the right to conduct and/or direct an independent accounting firm to conduct, during normal business hours, an audit of the appropriate records of Licensee to verify the number of copies of the Software in use, the number of Seats or Students having access to the Software, and the computer systems on which such copies are installed.

1.6 Copies. Licensee may make additional copies of the Software only to the extent reasonably necessary (i) for Licensee's internal purposes as set forth in Sections 1.1 and 1.2 and (ii) for archival and back-up purposes.

2. TERM; TERMINATION

2.1 Term of Agreement. This Agreement shall be effective as of the date on which it is signed by both parties (the "Effective Date") and shall remain in effect unless and until terminated in accordance with the provisions set forth in Sections 2.3 or 2.4 below. The expiration of any License Term hereunder shall not constitute termination of this Agreement.

2.2 Term of License. The initial term of the License shall commence upon the execution by the parties of the applicable Order Schedule and shall remain in effect for the number of years (or such other period of time) as set forth in such Order Schedule, unless earlier terminated in accordance with the provisions of Section 2.4 below (the "License Term"). Upon expiration of the initial License Term, the License may be renewed thereafter for successive terms, if then generally available, subject to payment by Licensee of the then-current applicable License fees and provided that an additional Order Schedule for such renewal is executed by the parties prior to the end of the then-current License Term. Upon execution of an additional Order Schedule, WebCT shall provide Licensee with a new license key for the renewed License Term. Unless otherwise agreed in writing by the parties, the term of each License renewal shall begin immediately as of the expiration of the prior License Term.

2.3 Termination for Convenience. Either party may terminate this Agreement without cause by providing thirty (30) days' prior written notice to the other party, and any such termination shall become effective upon expiration of the last to expire License granted hereunder.

2.4 Termination for Cause. Upon any breach by Licensee of Sections 1.1, 1.2 or 4 of this Agreement, WebCT shall have the right to

terminate this Agreement and the Licenses granted hereunder effective immediately upon written notice to Licensee. Upon any other material breach or default of this Agreement by either party, the other party shall provide the breaching party with written notice of the breach. If the breaching party fails to cure such breach within (30) days following receipt of such written notice, then the non-breaching party shall have the right to terminate this Agreement and the Licenses granted hereunder effective immediately upon written notice to the breaching party.

2.5 Effect of Expiration or Termination. In the event of the expiration of a License or termination of this Agreement for any reason, Licensee shall promptly, as to the Software under such License or the Agreement, as applicable, (i) discontinue all use of the Software; (ii) erase or destroy any Software contained in the computer memory or data storage apparatus under the control of Licensee; (iii) return to WebCT or destroy all copies of the Software provided by WebCT and any and all copies made by Licensee; and (iv) certify in writing to WebCT, within thirty (30) days of the expiration of the License or termination of this Agreement, that Licensee has complied with the foregoing.

2.6 Survival. Sections 2.5, 2.6, 3, 4, 5, 6.3, 7, 8.2, 9.1, 9.2, 9.5, 9.6, 9.7 and 9.8 hereof shall survive the expiration of any License or the termination of this Agreement.

3.0 FEES AND PAYMENT TERMS

3.1 License Fee. In consideration of the License granted hereunder and Licensee's commitment to license the Software for the full term set forth in the applicable Order Schedule, the annual license fee(s) for each year of the License Term shall be as specified in the applicable Order Schedule. Unless otherwise specified therein, the annual license fee for the first year of the License Term shall be invoiced upon execution of such Order Schedule and any remaining annual fees due in connection with such License shall be invoiced on or about the start of each applicable year of the License Term, respectively. All invoices shall be due and payable within thirty (30) days following the invoice date. All fees referenced under this Agreement shall be shown, invoiced, and payable in U.S. Dollars.

3.2 Taxes. Except to the extent that Licensee provides WebCT with appropriate documentation verifying that the License of Software to Licensee hereunder is tax exempt, Licensee shall pay all sales, use, excise and similar taxes applicable to the Software and this Agreement and shall reimburse WebCT for any such taxes paid by WebCT, excluding taxes based on the net income of WebCT. If Licensee is subject to the tax laws of a country other than the United States and is required by law to make any deduction or to withhold from any sum payable to WebCT hereunder, then the sum payable by Licensee upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, WebCT receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount WebCT would have received and retained in the absence of such required deduction or withholding.

4. PROTECTION OF THE SOFTWARE

4.1 Ownership. Licensee acknowledges and agrees that WebCT and its licensors retain all title, copyrights, patents and other proprietary rights in and to the Software. Licensee agrees any updates, patches, bug fixes, workarounds, upgrades, and enhancements to the Software furnished in connection with any Support Services (as defined below) shall be the sole and exclusive property of WebCT, subject to use by Licensee in accordance with the terms and conditions of this Agreement and only during the applicable License term.

4.2 Proprietary Markings. Licensee shall not alter, remove or conceal any government restricted rights notice or any copyright, trademark, trade name or other proprietary marking or notice that may appear in or on the Software and shall reproduce all such markings and notices in or on all copies of the Software made by Licensee. Notwithstanding the foregoing, Licensee may remove the WebCT logo from the user interface screens of the Software and replace it with Licensee's own institution logo, PROVIDED THAT ANY REPLACEMENT

ON A SINGLE USER INTERFACE SCREEN REQUIRES REPLACEMENT ON ALL USER INTERFACE SCREENS. To the maximum extent permitted by applicable law, Licensee shall indemnify, defend and hold WebCT harmless from and against any and all claims, demands or actions and costs, liabilities or losses arising out of any actual or alleged infringement of any third party trademark or copyright by Licensee's logo or other intellectual property in connection with such User screens. Any other usage or removal of any WebCT proprietary notices or trademarks requires the express written consent of WebCT.

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4.4 Third Parties. Licensee shall not (i) host the Software for access by any unauthorized user; (ii) rent, lease, loan, sublicense, or otherwise distribute the Software to any third party; or (iii) offer the Software in connection with timesharing, facility management, or service bureau usage.

5. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

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5.2 Exclusions. The obligations set forth in this Section 5 are contingent on prompt written notice by Licensee to WebCT of any third party claim, action or demand, sole control of the defense and settlement thereof by WebCT and reasonable cooperation of Licensee in such defense or settlement. Moreover, the obligations set forth herein shall not apply to any claim arising out of (i) the combination of the Software with other products not supplied by WebCT, to the extent that the claimed infringement would have been avoided absent such combination, and (ii) the modification of the Software by anyone other than WebCT.

5.3 Entire Liability. THIS SECTION 5 STATES THE ENTIRE LIABILITY OF WEBCT FOR ANY LOSS AND DAMAGES

WHATSOEVER ARISING OUT OF OR RELATING TO THE INFRINGEMENT OF ANY COPYRIGHT, PATENT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS.

6. WARRANTY AND DISCLAIMER

6.1 Warranty. WebCT warrants that the then-current version of the Software shall operate substantially in accordance with the then-current system administrator guide generally released by WebCT to its licensees, provided that the Licensee uses the Software in accordance with such guide and does not modify or otherwise alter the Software.

6.2 Sole Remedy. In the event the Software fails to perform as warranted above and Licensee advises WebCT in writing of a reproducible error in the Software, WebCT shall use commercially reasonable efforts to correct such error. In the event that WebCT is unable to correct an error within ninety (90) days following receipt of written notification from Licensee, Licensee may terminate the License for the Software in accordance with the terms of Section 2.4 above. Upon such termination and the return or destruction of the Software as set forth in Section 2.5, Licensee shall be entitled to a pro rata refund of any prepaid license fees for the Software so affected. This Section 6.2 sets forth Licensee's sole remedy, and WebCT's sole obligation, relating to performance of the Software and for breach of the warranty in Section 6.1.

6.3 Disclaimer. EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 6.1, THE SOFTWARE AND SUPPORT SERVICES ARE PROVIDED WITHOUT WARRANTY OF ANY KIND. THE EXPRESS WARRANTY SET FORTH IN SECTION 6.1 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. WEBCT SPECIFICALLY DOES NOT WARRANT THAT THE SOFTWARE SHALL MEET ALL OF LICENSEE'S REQUIREMENTS OR SHALL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY LICENSEE; THAT THE OPERATION OF THE SOFTWARE SHALL BE ERROR-FREE OR UNINTERRUPTED; OR THAT ALL ERRORS OR DEFECTS IN THE SOFTWARE SHALL BE CORRECTED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THAT THE ABOVE EXCLUSIONS MAY NOT APPLY TO LICENSEE. THIS WARRANTY GIVES LICENSEE SPECIFIC LEGAL RIGHTS. LICENSEE MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

7. LIMITATION OF LIABILITY

7.1 Limitation of WebCT's Liability. To the maximum extent permitted by applicable law, WebCT's liability in contract, tort (including negligence) or otherwise with respect to the Software and Support Services provided hereunder shall be limited to direct damages and, except as set forth in Section 5.1 of this Agreement, shall not exceed the amount of the license fee or Support Services fee, respectively, paid to WebCT with respect to such Software or Support Services during the twelve month period immediately preceding the date the claim arose.

7.2 Limitation of Licensee's Liability. To the maximum extent permitted by applicable law, except for Licensee's liability under Section 4.2 or a breach by Licensee of Sections 1.1, 1.2 or 4 of this Agreement, Licensee's liability in contract, tort (including negligence) or otherwise with respect to this Agreement shall not exceed the amount of the license fee(s) and Support Services fee(s) set forth in all fully-executed Order Schedules attached hereto.

7.3 No Consequential Damages. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT THAT NO SUCH LIMITATION SHALL APPLY IN THE EVENT OF A BREACH BY LICENSEE OF SECTIONS 1.1, 1.2 OR 4 OF THIS AGREEMENT.

8. SUPPORT SERVICES

8.1 Support Services. During the initial term of the License and, if generally available to WebCT's licensees at the time, during any renewal thereof or during the term of any additional License, WebCT shall provide a basic level of support for the Software ("WebCT Basic System Admin Support") to Licensee, free of charge, which shall include (i) upgrades or releases to the Software which WebCT makes generally available to its licensees and (ii) certain other services in accordance with the then-current WebCT Basic System Admin Support description set forth on WebCT's website at www.webct.com/options. In addition, at any time during the term of any License or any renewal thereof, Licensee may elect to purchase one of the then-current enhanced support options offered by WebCT as described on such WebCT website, by executing an Order Schedule to this Agreement indicating its selection and paying the applicable Support Service fees set forth therein. Any support option purchased by Licensee shall be coterminous with the then-current year of the License term or, if purchased after the start of any year of the License term, with the remaining portion of such year in which case the applicable Support Service Fee shall be prorated accordingly. Together with the WebCT Basic System Admin Support, such support options shall be collectively referred to herein as the "Support Services". All such Support Services will be provided in accordance with the then current applicable support option description set forth on www.webct.com/options, subject to the terms and conditions set forth herein. Licensee assumes all risks arising from Licensee's failure to implement updates and any other corrections released by WebCT. WebCT shall in no event be required to perform any on-site Support Services.

8.2 Support Service Fees. Support Services fees for any enhanced Support Service option selected by Licensee shall be as specified in the applicable Order Schedule and shall be due and payable within thirty (30) days following receipt of an invoice. If Licensee fails to pay Support Service fees when due, WebCT shall have no obligation to correct or support the Software in accordance with such selected option.

9. GENERAL

9.1 U.S. Government Restricted Rights. In the event that Licensee is an agency of the United States Government, or that a License granted hereunder is pursuant to a contract with either a defense or civilian agency of the United States Government, Licensee hereby acknowledges that the Software licensed hereunder is commercial computer software developed at private expense and provided to Licensee subject to restricted rights. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software Restricted Rights clause at 48 CFR 52.227-19, as applicable, or in successor provisions, as well as the limitations set forth herein. Manufacturer is WebCT, Inc., Six Kimball Lane, Lynnfield, Massachusetts 01940.

9.2 Export Control. Licensee acknowledges that it is subject to United States laws and regulations controlling the export of technical data, computer software and other commodities and agrees not to export or allow the export or re-export of such data, software or other commodities in violation of such laws and regulations.

9.3 Notices. Any notice that is required to be given hereunder shall be in writing and delivered to the addresses and titles set forth below by certified mail (return receipt requested), a recorded delivery service, or by other means of delivery requiring a signed receipt. All notices shall be effective upon receipt. If no address is supplied by Licensee below, notices to Licensee shall be sent to the address set forth on the first page of this Agreement, to the attention of the signature name set forth below. The addresses provided herein may be changed at any time on prior written notice.

If to WebCT: Six Kimball Lane
Lynnfield, Massachusetts 01940
Attn.: Exec. VP, C.F.O and Treasurer

If to Licensee: _____

RE
RE

9.4 Assignment. This Agreement and the Licenses granted hereunder may not be assigned, sublicensed, or otherwise transferred to another person or legal entity, whether by merger, consolidation, sale of assets or otherwise, without the prior written consent of WebCT.

9.5 Waiver. The failure of either party to enforce in any one or more instances any of the terms and conditions of this Agreement shall not be construed as a waiver of future performance of any such term or condition. Waiver of any term or condition shall be deemed to have been made only if expressed in writing by the party granting such waiver.

9.6 Severability. If any provision of this Agreement shall be held by a court of law of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be reformed, construed and enforced to the maximum extent permissible, and the remaining provisions shall remain in full force and effect.

9.7 Governing Law. The parties agree that this Agreement will be governed by, interpreted, and construed in accordance with the laws of the Commonwealth of Massachusetts. Each of the parties hereby irrevocably submits to the exclusive venue and jurisdiction of any federal

or state court sitting in Boston, Massachusetts in any action, suit or proceeding brought against it by the other party under this Agreement. The UN Convention on Contracts for the International Sale of Goods will not apply. The English language version of this Agreement shall govern.

9.8 Entire Agreement. This Agreement and all fully executed Order Schedules attached hereto constitute the entire agreement and understanding between the parties relating to the subject matter hereof, and supersede any and all oral and prior written representations, understandings or agreements between the parties with respect thereto. Printed terms and conditions on Licensee's purchase order shall not apply, even if executed by WebCT before or after the Effective Date of this Agreement. The subject matter of this Agreement is limited to the rights expressly granted herein. The terms of this Agreement shall have no force and effect with respect to any claim based on the use of the Software outside the scope of the Licenses and rights expressly granted herein. In the event of any conflict between the terms of this Agreement, and the terms of any Order Schedule, the terms of this Agreement shall prevail, unless an express term of an Order Schedule provides otherwise. Any modification or amendment to this Agreement, including the Order Schedules, must be in writing and signed by authorized representatives of both parties. This Agreement shall be deemed when executed to have been made in the Commonwealth of Massachusetts. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

RE
State of Alabama

LICENSEE:

By: Reba J. Essary
(Authorized Signature)

Name: _____ Reba J. Essary
Associate Vice President _____
Title: _____ for Finance _____
Date: _____

WEBCT, INC.

By: Carol Vallone
(Authorized Signature)

Name: MARYL VALLONE
Title: President & CEO
Date: 8/20/02

WebCT Order Schedule

Licensee: University of Alabama, The

| <u>Description</u> | <u>Price</u> | <u>Quantity</u> | <u>Extended</u> |
|---|------------------|-----------------|--------------------|
| Campus Edition Institution: 15001-25000 FTE | \$ 32,500.00 | 1 | \$32,500.00 |
| Start Date: 8/7/03 | End Date: 8/6/04 | | |
| | | Grand Total: | \$32,500.00 |

If WebCT Campus Edition and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for Campus Edition between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If WebCT Vista and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

LICENSEE:

WEBCT, INC.

By:

(Authorized Signature)

Name:

Name:

Title: _____

Title: _____

Date: _____

Date: _____

Diane,
Please process a req,
to WebCT for \$32,500,
210-410-4191
Reba needs to sign
the Order Schedule.
We need to rush this
payment since it's so
close to the expiration
date. Thanks! /Sherry

7-18-03

I also need
a copy of
the signed
order schedule

WebCT Order Schedule

R051462

Licensee: University of Alabama, The

| <u>Description</u> | <u>Price</u> | <u>Quantity</u> | <u>Extended</u> |
|---|------------------|-----------------|-----------------|
| Campus Edition Institution: 15001-25000 FTE | \$ 36,000.00 | 1 | \$36,000.00 |
| Start Date: 8/7/04 | End Date: 8/6/05 | | |
| | | Grand Total: | \$36,000.00 |

Unless stated otherwise above, fees shown above are in US Dollars.

If WebCT Campus Edition and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for Campus Edition between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If WebCT Vista and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

LICENSEE:

By:

(Authorized Signature)

Name: _____

Title: _____

Date: _____

WEBCT, INC.

By:

(Authorized Signature)

Name: _____

Title: _____

Date: _____

1058159

WebCT Order Schedule

WebCT, Inc., 6 Kimball Lane, Lynnfield, MA 019

Licensee: University of Alabama, The

| Description | Price | Quantity | Extended |
|---|--------------|--------------|-------------|
| Campus Edition Institution: 15001-25000 FTE Start Date: 8/7/05 End Date: 8/6/06 | \$ 39,500.00 | 1.00 | \$39,500.00 |
| | | Grand Total: | \$39,500.00 |

Unless stated otherwise above, fees shown above are in US Dollars.

If WebCT Campus Edition and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for Campus Edition between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If WebCT Vista and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

LICENSEE: University of Alabama, The

By:

(Authorized Signature)

Name: _____

Title: _____

Date: _____

WEBCT, INC.

By:

(Authorized Signature)

Name: _____

Title: _____

Date: _____

Page 1 of 1



[Server Infor Confirmation... \(28.0 KB\)](#) [Server Info Confirmation... \(28.0 KB\)](#)

SOFTWARE LICENSE AGREEMENT FOR WEBCT VISTA™ ENTERPRISE

(Single-Institution, Perpetual License)

Licensee Name: The University of Alabama

Licensee Address: _____

THIS SOFTWARE LICENSE AGREEMENT FOR WEBCT VISTA™ ENTERPRISE (the "Agreement") is between WebCT, Inc., a Delaware corporation with its principal place of business at Six Kimball Lane, Lynnfield, Massachusetts 01940 ("WebCT"), and the licensee named above ("Licensee"). The terms and conditions of this Agreement shall apply to (i) the WebCT Vista Enterprise software program(s) specified on any fully-executed Order Schedule (the "Order Schedule") to this Agreement, including any programs of WebCT's licensors that are delivered by WebCT with or as part of the WebCT Vista Enterprise software program, and any and all copies, in whole or in part, backups, related documentation, system administrator guides and user manuals, printed listings of code, and any patches, bug fixes, workarounds, upgrades, enhancements, and updates which may be subsequently furnished by WebCT to Licensee in connection with Sections 6.3 or 8 hereunder (collectively, the "Software") and (ii) any Support Services (as defined in Section 8.1) relating to the Software provided by WebCT to Licensee. In consideration of the mutual promises contained herein, the parties agree as follows:

1. GRANT OF LICENSE

1.1 License Grant. Upon execution by the parties of this Agreement and an Order Schedule to this Agreement and subject to payment by Licensee of the license fee set forth in such Order Schedule and the terms and conditions of this Agreement, WebCT hereby grants to Licensee a nonexclusive, nontransferable, perpetual license ("License") to use and copy the Software, in object code format, only for Licensee's academic and internal administrative purposes. Such academic and administrative purposes shall include use of the Software for any Licensee-controlled and Licensee-delivered adult education or community outreach programs, provided that such use does not elevate the number of students accessing the Software above the authorized full-time equivalent enrollment level ("FTE Level") as specified in the applicable Order Schedule. This is a license agreement and not an agreement for sale. All rights not specifically granted shall be reserved to WebCT.

1.2 Use. The License granted hereunder authorizes the installation and use of the Software for production purposes on a single production server or, to the extent required for and for the sole purposes of application clustering and/or load balancing, (i) on a group of 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 multiple managed node servers or (ii) on multiple managed nodes that are configured and deployed on a single physical host that manages the self-contained nodes. Each such grouping of servers and/or nodes shall hereinafter be defined as a "Server Cluster". In addition, unless otherwise agreed upon by the parties, the Software may be installed on a single non-production server for internal testing/back-up purposes only. The location of each server on which the Software is to be installed shall be designated in writing by Licensee to WebCT at the time the applicable Order Schedule is executed (the "Designated Location"). The License authorizes use of the Software only by Licensee's students, faculty, administrators, other employees, and/or contractors whose responsibilities require such access ("Users"), subject to the authorized FTE Level (or other usage limits, if any) specified in the applicable Order Schedule. Use of the Software is not permitted (a) for production purposes on other than the identified production server (or servers within the Server Cluster, if applicable) used by the Designated Location, (b) at a location other than

the Designated Location, or (c) on the non-production server(s) for other than internal testing/back-up purposes.

1.3 Delivery. WebCT shall deliver to Licensee one (1) copy of the latest release of the Software made generally available by WebCT at the time the applicable Order Schedule is executed by the parties (unless otherwise specified therein), either electronically or in the form of a CD-ROM, promptly after the date on which such Order Schedule is signed by the parties and all necessary IP address and operating system information has been provided by Licensee to WebCT.

1.4 License Keys. Licensee acknowledges that the Software shall be activated by a license key consisting of identification codes which shall be provided to Licensee electronically promptly after receipt by WebCT of Licensee's IP address and operating system information.

1.5 Compliance. Upon WebCT's written request (which shall occur no more than once every six (6) months), Licensee shall provide WebCT with a written statement, certified by an authorized representative of Licensee, listing Licensee's then-current FTE Level, the number of copies of the Software in use, and the number of servers on which the Software is installed (including the number of servers within the designated Server Cluster, if applicable). Such statement shall include a confirmation that the use of the Software has been reviewed and that each copy of the Software is being used solely pursuant to the provisions of this Agreement. WebCT will have the right, at its expense, to conduct and/or direct an independent accounting firm to conduct, during normal business hours, an audit of the relevant records of Licensee to verify Licensee's then-current FTE Level, the number of copies of the Software in use and number of servers on which the Software is installed.

1.6 Copies. Licensee may make additional copies of the Software only to the extent reasonably necessary (i) for Licensee's internal purposes as set forth in Sections 1.1 and 1.2, subject to the number of servers on which the Software is permitted to be installed as set forth herein; and (ii) for archival and back-up purposes.

1.7 Pre-Existing Campus Edition License. If Licensee holds a current license for the WebCT Campus Edition™ software (the "Pre-Existing Campus Edition License") as of the start date of the WebCT Vista Enterprise license granted under this Agreement pursuant to Section 2.1 below, the parties hereby agree that, notwithstanding the license term specified in the applicable Order Schedule for the Pre-Existing Campus Edition License, (i) such license will remain in full force and effect in accordance with its terms only through the remaining portion of the contracted Pre-Existing Campus Edition License term for which Licensee has paid a fee and (ii) as of the expiration date of such prepaid period, the Pre-existing Campus Edition License shall be deemed immediately and automatically terminated. Effective as of the date of such termination, WebCT hereby grants to Licensee a nonexclusive, nontransferable license to use such WebCT Campus Edition software in accordance with the terms and conditions of this Agreement (the "Migration Campus Edition License") for purposes of assisting Licensee with its migration to WebCT Vista Enterprise. Such license shall commence as of the termination date of the Pre-existing Campus Edition License as set forth above and shall remain in effect through the last day of the third year of the perpetual WebCT Vista Enterprise license granted under this Agreement, unless earlier terminated in accordance with this Section 1.7 or Section 2.2 below. In the event that the License for WebCT Vista Enterprise is terminated

pursuant to Section 2.2 below prior to the end of its third year, the Migration Campus Edition License shall be deemed immediately and automatically terminated as of the termination date of such WebCT Vista Enterprise license. In consideration of Licensee's commitment to license the WebCT Vista Enterprise software as set forth in this Agreement, WebCT shall provide the Migration Campus Edition License at no charge during the Migration Campus Edition License term described herein. Under the Migration Campus Edition License, Licensee shall be authorized to install and use the WebCT Campus Edition software only on a single production server at the location designated by Licensee in writing to WebCT and, unless otherwise agreed upon by the parties, a single non-production server for internal testing/back-up purposes only. Any Support Service option selected by Licensee and provided by WebCT for WebCT Vista Enterprise pursuant to Section 8 of this Agreement below shall also include coverage for the Migration Campus Edition License. For purposes of clarification, Support Service coverage under a specific Support Services option shall be provided to Licensee for its Migration Campus Edition License only if Licensee has contracted to receive such support coverage for the WebCT Vista Enterprise software pursuant to Section 8 below. Except as expressly set forth in this Section 1.7, all other terms of this Agreement shall apply to the Migration Campus Edition License and the term "Software" as used in this Agreement shall be deemed to include the Campus Edition software for purposes of the license granted hereunder.

2. TERM; TERMINATION

2.1 Term. This Agreement shall be effective as of the date on which it is signed by both parties (the "Effective Date") and the License shall be effective as of the date on which the applicable Order Schedule is signed by both parties. The Agreement and the License shall remain in effect unless and until terminated in accordance with the provisions set forth in Sections 2.2 below.

2.2 Termination for Cause. Notwithstanding the perpetual nature of the License, upon any breach by Licensee of Sections 1.1, 1.2 or 4 of this Agreement, WebCT shall have the right to terminate this Agreement and the License effective immediately upon written notice to Licensee. Upon any other material breach or default of this Agreement by either party, the other party shall provide the breaching party with written notice of the breach. If the breaching party fails to cure such breach within (30) days following receipt of such written notice, then the non-breaching party shall have the right to terminate this Agreement and the License granted hereunder effective immediately upon written notice to the breaching party.

2.3 Effect of Termination. In the event of any termination of this Agreement, Licensee shall promptly: (i) discontinue all use of the Software; (ii) erase or destroy any Software contained in the computer memory or data storage apparatus under the control of Licensee; (iii) return to WebCT or destroy all copies of the Software provided by WebCT and any and all copies made by Licensee; and (iv) certify in writing to WebCT, within thirty (30) days of the termination of this Agreement, that Licensee has complied with the foregoing.

2.4 Survival. Sections 2.3, 2.4, 3, 4, 5, 6.2, 7, 8.2, 9.1, 9.2, 9.5, 9.6, 9.7 and 9.8 hereof shall survive any termination of this Agreement.

3.0 LICENSE FEE AND PAYMENT TERMS

3.1 License Fee. In consideration of the License granted hereunder, Licensee agrees to pay to WebCT the license fee specified in the applicable Order Schedule which shall be due and payable within thirty (30) days following the date on which it is invoiced, unless otherwise specified in such Order Schedule. All fees referenced under this Agreement shall be shown, invoiced, and payable in U.S. Dollars, unless otherwise expressly indicated on the applicable Order Schedule.

3.2 Taxes. Except to the extent that Licensee provides WebCT with appropriate documentation verifying that the License of Software to Licensee hereunder, and the Support Services provided to Licensee pursuant to Section 8 below (if applicable), are tax exempt, Licensee shall pay all sales, use, and similar taxes applicable to the Software, Support Services and this Agreement and shall reimburse WebCT for

any such taxes paid by WebCT, excluding taxes based on the net income of WebCT. If Licensee is subject to the tax laws of a country other than the United States and is required by law to make any deduction or to withhold from any sum payable to WebCT hereunder, then the sum payable by Licensee upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, WebCT receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount WebCT would have received and retained in the absence of such required deduction or withholding.

4. PROTECTION OF THE SOFTWARE

4.1 Ownership. Licensee acknowledges and agrees that WebCT and its licensors retain all title, copyrights, patents and other proprietary rights in and to the Software. Licensee agrees any updates, patches, bug fixes, workarounds, upgrades, and enhancements to the Software furnished in connection with any Support Services (as defined below) shall be the sole and exclusive property of WebCT, subject to use by Licensee in accordance with the terms and conditions of this Agreement.

4.2 Proprietary Markings. Licensee shall not alter, remove or conceal any government restricted rights notice or any copyright, trademark, trade name or other proprietary marking or notice that may appear in or on the Software and shall reproduce all such markings and notices in or on all copies of the Software made by Licensee. Notwithstanding the foregoing, Licensee may remove the WebCT logo from the user interface screens of the Software and replace it with Licensee's own institution logo(s), PROVIDED THAT, IF THE WEBCT LOGO IS REMOVED FROM A SINGLE USER INTERFACE SCREEN, IT IS REMOVED FROM ALL USER INTERFACE SCREENS. No other usage or removal of any WebCT proprietary notices or trademarks is authorized hereunder.

4.3 Further Restrictions. Licensee agrees to treat the Software as a confidential trade secret and valuable asset of WebCT and agrees that such Software shall not be used for any purpose other than as set forth herein. Licensee shall not (i) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software, (ii) develop a competing product based on the Software, or (iii) attempt in any way to access the source code for the Software, except to the extent expressly permitted by applicable law and to the extent the parties shall not be permitted by that applicable law to exclude or limit such rights. Information relating to the Software necessary to enable the production of interoperable software shall be available from WebCT on request. In addition, Licensee may use the third party software programs that are licensed and delivered by WebCT with and as a part of the Software hereunder only in conjunction with the WebCT Vista Enterprise software program (or in the case of the Migration Campus Edition License, the WebCT Campus Edition software). Use of such third party software is not permitted without the WebCT Vista Enterprise software program (or in the case of the Migration Campus Edition License, the WebCT Campus Edition software). Further, Licensee may not use such third party software programs for independent application development purposes or for any other purpose outside the scope defined in Section 1.1 of this Agreement. Licensee agrees to treat the terms and conditions of this Agreement (including the fees set forth in any Order Schedule hereto) as confidential information of WebCT and, to the maximum extent permitted by applicable law, shall not disclose such information, except to (a) those persons within its organization with a need to know for purposes of performing their duties, (b) to Licensee's attorneys, accountants or other fiduciary advisors as reasonably necessary, or (c) as required by law. Licensee shall adopt reasonable measures to assure that its Users will make no disclosure of the Software or the information contained therein to other persons or legal entities and that such Users adhere to the restrictions set forth in this Section 4.

4.4 Third Parties. Licensee shall not (i) host the Software for access by any unauthorized user; (ii) rent, lease, loan, sublicense, or otherwise distribute the Software to any third party; or (iii) offer the Software in connection with timesharing, facility management, or service bureau usage.

5. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

5.1 Infringement. WebCT shall, at WebCT's expense, defend or settle any action brought against Licensee based on a claim that the Software infringes a third party's United States patent, copyright, trade secret or other intellectual property right and shall pay all costs and damages finally awarded against Licensee in any such action which are attributable to such claim, subject to the exclusions set forth in Section 5.2 below. In addition, should the Software or any part thereof become, or in WebCT's opinion, be likely to become, the subject of a claim of infringement, WebCT may, at its option and at its own expense, (i) procure for Licensee the right to continue using such Software as contemplated hereunder, (ii) modify the Software to render it non-infringing or (iii) replace the Software with functionally equivalent software. If WebCT determines that none of the foregoing is reasonably available to WebCT, then WebCT may terminate this Agreement and the License upon thirty (30) days prior written notification to Licensee and, upon such termination and the return or destruction of the Software, WebCT shall provide to Licensee a pro-rata refund (based on a five (5) year depreciation schedule) of any prepaid license fees for such Software. Except as set forth in this Section 5, WebCT shall have no further liability to Licensee with respect to such intellectual property infringement claim.

5.2 Exclusions. The obligations set forth in this Section 5 are contingent on (a) prompt written notice by Licensee to WebCT of any third party claim, action or demand; (b) sole control of the defense and settlement thereof by WebCT; and (c) reasonable cooperation of Licensee in such defense or settlement. Moreover, the obligations set forth herein shall not apply to any claim arising out of (i) the combination of the Software with other products not supplied by WebCT, to the extent that the claimed infringement would have been avoided absent such combination or (ii) the modification of the Software by anyone other than WebCT.

5.3 Entire Liability. THIS SECTION 5 STATES THE ENTIRE LIABILITY OF WEBCT FOR ANY LOSS AND DAMAGES WHATSOEVER ARISING OUT OF OR RELATING TO THE INFRINGEMENT OF ANY COPYRIGHT, PATENT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS.

6. WARRANTY AND DISCLAIMER

6.1 Warranty. WebCT warrants that, for a period of one (1) year following the first delivery under this Agreement of a license key for the WebCT Vista Enterprise software to Licensee or, if delivered in CD Rom format, the first delivery under this Agreement of the WebCT Vista Enterprise software to Licensee (the "Warranty Period"), the WebCT Vista Enterprise software shall operate substantially in accordance with the then-current WebCT Vista system administrator guide generally released by WebCT to its licensees, provided that (i) the WebCT Vista Enterprise software is operated in accordance with such guide, and (ii) Licensee does not modify or otherwise alter the WebCT Vista Enterprise software. This warranty is void if the non-performance of the WebCT Vista Enterprise software has resulted from accident, abuse, or misapplication by Licensee. Replacement software, or modifications, updates, releases and enhancements delivered to Licensee pursuant to Support Services (as defined in Section 8) shall not extend the duration of the Warranty Period.

6.2 Disclaimer. EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 6.1, THE SOFTWARE AND SUPPORT SERVICES ARE PROVIDED WITHOUT WARRANTY OF ANY KIND. THE EXPRESS WARRANTY SET FORTH IN SECTION 6.1 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. WEBCT SPECIFICALLY DOES NOT WARRANT THAT THE SOFTWARE SHALL MEET ALL OF LICENSEE'S REQUIREMENTS OR SHALL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY LICENSEE; THAT THE OPERATION OF THE SOFTWARE SHALL BE ERROR-FREE OR UNINTERRUPTED; OR

THAT ALL ERRORS OR DEFECTS IN THE SOFTWARE SHALL BE CORRECTED.

6.3 Sole Remedy. In the event the WebCT Vista Enterprise software fails to perform as warranted in Section 6.1 above and Licensee provides WebCT with written notice under the Agreement of a reproducible error in the WebCT Vista Enterprise software prior to the expiration of the Warranty Period, WebCT shall use commercially reasonable efforts to correct or provide a workaround for such error. In the event that WebCT is unable to make the WebCT Vista Enterprise software operate as warranted within ninety (90) days following receipt of such written notification from Licensee, Licensee may terminate the License for the Software, effective immediately upon written notice to WebCT. Upon such termination and the return or destruction of the Software as set forth in Section 2.3, Licensee shall be entitled to recover the fees paid to WebCT by Licensee for the WebCT Vista Enterprise License. This Section 6.3 sets forth Licensee's sole remedy, and WebCT's sole obligation, relating to performance of the Software and for breach of the warranty in Section 6.1.

7. LIMITATION OF LIABILITY

7.1 Limitation of WebCT's Liability. To the maximum extent permitted by applicable law, WebCT's liability in contract, tort (including negligence) or otherwise with respect to the Software and Support Services provided hereunder shall be limited to direct damages and, except as set forth in Section 5.1 of this Agreement, shall not exceed the amount of the License fee or Support Services fees, respectively, paid to WebCT with respect to such Software or Support Services.

7.2 Limitation of Licensee's Liability. To the maximum extent permitted by applicable law, except for Licensee's liability under Section 4.2 or a breach by Licensee of Sections 1.1, 1.2 or 4 of this Agreement, Licensee's liability in contract, tort (including negligence) or otherwise with respect to this Agreement shall not exceed the amount of the License fee and Support Services fees set forth in all fully-executed Order Schedules attached hereto.

7.3 No Consequential Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT THAT NO SUCH LIMITATION SHALL APPLY IN THE EVENT OF A BREACH BY LICENSEE OF SECTIONS 1.1, 1.2 OR 4 OF THIS AGREEMENT.

8. SUPPORT SERVICES

8.1 Support Services. During the term of the Agreement, if generally available to WebCT's licensees at the time, Licensee may elect to purchase, on an annual basis, one of the then-available support options offered by WebCT as described on WebCT's website at www.webct.com/options (collectively, "Support Services"), by executing an Order Schedule to this Agreement indicating its selection and paying the Support Service fee set forth therein. At the end of any Support Service term, Licensee may renew any then-available Support Services on an annual basis for successive twelve (12) month terms at WebCT's then-current applicable fees (unless otherwise agreed upon in writing by the parties), provided that an additional Order Schedule for such renewal is executed by the parties prior to the end of the expiring Support Services term. All such Support Services, including any renewal thereof, will be provided in accordance with the then current applicable support option description set forth on www.webct.com/options, subject to the terms and conditions set forth herein. Licensee assumes all risks arising from Licensee's failure to implement updates and any other corrections released by WebCT. WebCT shall in no event be required to perform any on-site Support Services.

8.2 Support Service Fees. Support Services fees for any Support Service option selected by Licensee shall be as specified in the then-current applicable Order Schedule. Unless otherwise stated therein, such Support Services Fees shall be invoiced upon execution by the

parties of such Order Schedule and shall be due and payable within thirty (30) days following the date of invoice. If Licensee elects not to renew Support Services at the end of a Support Service term and wishes to reinstate such Support Services at a later date, Licensee may do so, if generally available, by paying the then-current applicable Support Service fee and all lapsed Support Service fees which would have been due had no interruption in Support Services occurred.

9. GENERAL

9.1 U.S. Government Restricted Rights. In the event that Licensee is an agency of the United States Government, or that a License granted hereunder is pursuant to a contract with either a defense or civilian agency of the United States Government, Licensee hereby acknowledges that the Software licensed hereunder is commercial computer software developed at private expense and provided to Licensee subject to restricted rights. Use, duplication, or disclosure by the Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software Restricted Rights clause at 48 CFR 52.227-19, as applicable, or in successor provisions, as well as the limitations set forth herein. Manufacturer is WebCT, Inc., Six Kimball Lane, Lynnfield, Massachusetts 01940.

9.2 Export Control. Licensee acknowledges that it is subject to United States laws and regulations controlling the export of technical data, computer software and other commodities and agrees not to export or allow the export or re-export of such data, software or other commodities in violation of such laws and regulations.

9.3 Notices. Any notice that is required to be given hereunder shall be in writing and delivered to the addresses and titles set forth below by certified mail (return receipt requested), a recorded delivery service, or by other means of delivery requiring a signed receipt. All notices shall be effective upon receipt. If an address is not supplied for Licensee below, notices to Licensee shall be sent to the address set forth on the first page of this Agreement, to the attention of the signature name set forth below. The addresses provided herein may be changed at any time on prior written notice to the other party.

If to WebCT: Six Kimball Lane
Lynnfield, Massachusetts 01940
Attn.: Exec. VP, C.F.O and Treasurer

If to Licensee: _____

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement.

LICENSEE: THE UNIVERSITY OF ALABAMA

By: Reba J. Essary
(Authorized Signature)

Name: Reba J. Essary
Associate Vice President
for Finance

Title: _____

Date: 12/9/05

WEBCT, INC.

By: _____
(Authorized Signature)

Name: _____

Title: _____

Date: _____

THE UNIVERSITY OF ALABAMA

Purchasing Department
Tuscaloosa Campus
Phone: (205) 348-5230 Fax: (205) 348-8706

DATE

12/12/2005

PURCHASE ORDER NUMBER

P046409

BILL TO: Accounts Payable
Box 870137
Tuscaloosa, AL 35487-0137
Phone: (205) 348-5250 Fax: (205) 348-9248

INSTRUCTIONS TO VENDOR:
On F.O.B. point of shipment, prepay and bill for freight charge.
Separate invoice must be rendered for each purchase order.
Show purchase order number on all invoices and packages.

TERMS

F.O.B.

QUOTE NO./QUOTE DATE

EXPECTED DELIVERY DATE

N 30

ORDER SCHEDULE

PURCHASING CONTACT

VICKI BROWN

PHONE

REQUEST NO.

DEPARTMENT/INTERNAL NO.

VENDOR I.D. NO.

R064321 ****

P0000018021

(NOT P.O. #)

The University of Alabama will not be liable for the payment of any invoice for purchases not reflecting quantity, description, and cost, as shown by a purchase order signed by the Associate Vice President for Finance. The University is an instrumentality of the state and is Federal, State, and Local Tax Exempt. (see reverse side)

WEBCT INC
V 6 KIMBALL LN STE 310
E LYNNFIELD MA 01940
N
D
O R Attn: Monica Bouchard

THE UNIVERSITY OF ALABAMA
S OIT
H A301 GORDON PALMER
P ATTEN: TOMMY RABURN
T TUSCALOOSA AL 35487
O

| ACCOUNT NUMBER | PERCENT | AMOUNT | ACCOUNT NUMBER | PERCENT | AMOUNT |
|----------------|---------|--------|----------------|---------|-----------|
| 7-60105-4190 | 100.00 | | 7-60105-4313 | | 68,600.00 |

| NO. | QUANTITY | UNIT | DESCRIPTION | UNIT PRICE | EXTENSION |
|-----|----------|------|--|------------|------------|
| 001 | 1.00 EA | | Contract Order RENEWAL OF WEBCT VISTA ENTERPRISE PERPETUAL LICENSE FEE & BASIC SYSTEM ADMIN SUPPORT FEE, 12/15/05-12/14/06; | | |
| 002 | 1.00 EA | | WEBCT VISTA ENTERPRISE PERPETUAL LICENSE FEE | 244,595.00 | 244,595.00 |
| 003 | 1.00 EA | | WEBCT VISTA ENTERPRISE BASIC SYSTEM ADMIN SUPPORT FEE 15001-25000 FTE (12/15/05 - 12/14/06) | 68,600.00 | 68,600.00 |

PER ATTACHED WEBCT ORDER SCHEDULE

By accepting this PO or payments associated with this PO, Vendor certifies that no University employee or official, and no family member of a University employee or official, will receive a benefit from this University payment, except as has been previously disclosed, in writing, to the University on the attached Disclosure Statement of Relationship Between Contractors/ Grantees and Employees/ Officials of The University of Alabama

This contract now
takes over the
old campus license
& the FOCUS license

THE UNIVERSITY OF ALABAMA

TOTAL ►

\$ 313,195.00

Date 12/12/2005

Page

1

R064321

WEBCT ORDER SCHEDULE

LICENSEE NAME: THE UNIVERSITY OF ALABAMA

| <u>Product Name:</u> | <u>Term</u> | <u>FTE Level</u> |
|--|----------------------|------------------|
| WebCT Vista Enterprise Perpetual License: 15001 - 25000 FTE | 12/15/05 – Perpetual | 15001-25000 |
| WebCT Vista Enterprise Basic System Admin Support: 15001-25000 FTE | 12/15/05 - 12/14/06 | 15001-25000 |

Fees:

WebCT Vista Enterprise Perpetual License Fee: \$343,000.00
Less Twenty (20%) License Fee Discount (\$ 68,600.00)*
Less Credit of Unused Portion of Pre-paid Campus Edition Institution License Fees: (\$ 25,432.00)
Less Credit of Unused Portion of Pre-paid Campus Edition Focus License Fees (\$ 4,373.00)

Total Perpetual License Fee Due: \$ 244,595.00

WebCT Vista Enterprise Basic System Admin Support Fee 15001-25000 FTE (12/15/05 – 12/14/06): \$ 68,600.00

Total License Fee and First Year Support Services Fee: \$ 313,195.00

Option to Renew WebCT Support Services: At the end of the initial one (1) year Support Services term on December 14, 2006, Licensee may renew WebCT Vista Enterprise Basic Support for the second year of the License Term (12/15/06 - 12/14/07) at the same rate charged for the initial year as set forth above (US\$ 68,600.00), provided that (i) Licensee's actual FTE level has not exceeded the 15001-25000 level authorized hereunder and (ii) Licensee executes an additional Order Schedule for such renewal prior to the expiration of the initial Support Services term on December 14, 2006.

*The discount set forth herein is valid only if the WebCT Software License Agreement for WebCT Vista Enterprise and this Order Schedule are executed by Licensee and submitted to WebCT on or before December 15, 2005.

Payment Terms: The License Fee and first year Support Services fee as stated above shall be invoiced upon execution by the parties of the Agreement (as defined below) and this Order Schedule and shall be due and payable within thirty (30) days following the date of such execution.

Terms and Conditions: The Software license and Support Services listed above shall be governed by the Software License Agreement for WebCT Vista Enterprise (Single Institution, Perpetual License) between the parties (the "Agreement"), the terms and conditions of which are incorporated herein by reference.

LICENSEE: THE UNIVERSITY OF ALABAMA

By: Reba J. Essary
(Authorized Signature)

Name: __ Reba J. Essary _____
Associate Vice President
Title: __ for Finance _____

Date: 12/9/05

WEBCT, INC.

By: _____
(Authorized Signature)

Name: _____

Title: _____

Date: _____

P0005330

Tommy asked P. to
process.
(P0005067)

WebCT Order Schedule

WebCT, Inc., 6 Kimball Lane, Lynnfield, MA 01940

The Board of Trustees of the University of Alabama

| Product Description | Product ID | Qty. | Units | Total Price |
|-------------------------------|----------------------|------|-------|-------------|
| VISTA ENTP PERP BASIC SPT RNW | CT/VPBASCSPTRN WL | 1 | YR | 68600.00 |
| Total: | | | | \$68,600.00 |

For: FTE 15,001 – 25,000

For period: 12/15/2006 – 12/14/2007

Unless stated otherwise above, fees shown above are in US Dollars.

If WebCT Campus Edition, a WebCT Vista Module(s), or any associated Support Services are listed on this Order Schedule, such product(s) shall be provided subject to the terms and conditions of the Software License Agreement for WebCT Campus Edition or the Software License Agreement for WebCT Campus Edition Software and/or WebCT Vista Modules (as applicable) between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If WebCT Vista and any associated Support Services are listed on this Order Schedule, such products shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between the parties, to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

LICENSEE: The Board of Trustees of the University of Alabama

WEBCT, INC.

By:

(Authorized Signature)

By:

(Authorized Signature)

Name:

Name:

Title:

Title:

Date:

Date:



NOTE: To ensure that your key functions properly and arrives in a timely manner, it is imperative that the requested information is completely accurate.

INSTITUTION NAME

| |
|--|
| The Board of Trustees of the University of Alabama |
| 505 Hackberry Lane |
| Tuscaloosa, AL, 35487, USA |

| License Type | Internal TCP/IP Address of Server | Instance / Port | Server Operating System | WebCT Software Version |
|---|---|---|---|--|
| Please confirm the license desired (a). | Please confirm your internal IP address of the server that you will be using to host WebCT. | Please confirm the instance or port number that the server will be using for hosting WebCT (Primary, Secondary, 3rd, etc.). | Please confirm the WebCT supported operating systems (b). | Please confirm your desired WebCT version (c). |
| Production | | | | |
| Development | | | | |
| Migration | | | | |
| | | | | |
| | | | | |

| LICENSE CONTACT | Title | Function | Email | Phone |
|-------------------------|-------------------------------------|----------|---------------------|------------|
| Essary, Reba | Associate Vice President of Finance | | ressary@bama.ua.edu | 2053487917 |
| PRIMARY SUPPORT CONTACT | Title | Function | Email | Phone |
| Fitts, Bill | WebCT Developer | | bfitts@bama.ua.edu | 2053489780 |

CE INSTITUTION & VISTA ONLY

| SECONDARY SUPPORT CONTACT | Title | Function | Email | Phone |
|---------------------------|--------------------------|----------|-------------------|------------|
| Crocker, Deborah | | | crock@bama.ua.edu | 2053483758 |
| BILLING CONTACT | Title | Function | Email | Phone |
| Sherry Harvey | Site License Coordinator | | sharvey@ua.edu | 2053489809 |

| | |
|-------------------------|---------------------------------|
| Bill to Street | Box 870346 |
| Bill to City, State Zip | Tuscaloosa, AL, 35487-0137, USA |

The University of Alabama

Purchasing Department
Tuscaloosa Campus
Phone: (205) 348-5230 Fax: (205) 348-8706

BILL TO: Accounts Payable
Box 870137
Tuscaloosa, AL 35487-0137
Phone: (205) 348-5250 Fax: (205) 348-9248

DATE

11/26/07

PURCHASE ORDER NUMBER

P0011577

INSTRUCTIONS TO VENDOR

On F.O.B point of shipment, prepay and bill for freight charge.
Separate invoice must be rendered for each purchase order.
Show purchase order number on all invoices and packages.

CLASS CODE
CONTRACT PURCHASE

F.O.B.

RECEIPT REQUIRED
No Receipt Required

EXPECTED DELIVERY DATE
10-DEC-2007

PURCHASING CONTACT
Vicki Brown Santina PHONE 205 - 3485019

REQUEST NO.
R0011999

ORGANIZATION
200721

VENDOR ID NO.
11071771

This University of Alabama will not be liable for the purchase of any goods or services not reflecting quantity, description and cost as shown by a purchase order signed by Associate Vice President for Finance. The University of Alabama is a state entity of the state and is Federal, State, and Local Tax Exempt.

V
E
N
D
O
R
Blackboard Inc
1899 L St Nw 5th Fl
Washington DC 20036

S
H
I
P
T
O
The University of Alabama
Office of Information Tech
505 Hackberry Lane
A231 Gordon Palmer
Tuscaloosa AL 35487
ATTN: SHERRY HARVEY

| FOAPAL | AMOUNT | FOAPAL | AMOUNT |
|---------------------------|-------------|--------|--------|
| A-11000-200721-748025-600 | \$80,784.00 | | |

| NO. | QUANTITY | UNIT | DESCRIPTION | UNIT PRICE | EXTENSION |
|-----|----------|------|---|------------|-----------|
| 1 | 1.00 | YR | CONTRACT PURCHASE PER SIGNED ORDER SCHEDULE ATTACHED RENEWAL FOR THE TERM 12/15/07--12/14/08 B102 CT/VPBASCSPTRIN VISTA ENTERPRISE PERPETUAL, BASIC SOFTWARE SUPPORT | 80,784.00 | 80,784.00 |

DISCOUNT:

.00

TOTAL

80,784.00

THE UNIVERSITY OF ALABAMA

Sherry Harvey

Associate Vice President for Finance

Date

11/26/07

Page 1

Renews P005330



NOTE: To ensure that your key functions properly and arrives in a timely manner, it is imperative that the requested information is completely accurate.

INSTITUTION NAME

The Board of Trustees of The University of Alabama

505 Hackberry Lane

Tuscaloosa, AL 35487-0346, USA

| License Type | Internal TCP/IP Address of Server | Instance / Port | Server Operating System | WebCT Software Version |
|--|-------------------------------------|---|--|---|
| Production | 130.160.4.80 | Please confirm the instance or port number that the server will be using for hosting WebCT (Primary, Secondary, 3rd, etc.). 80/443 | Please confirm the WebCT supported operating systems (b). Solaris | Please confirm your desired WebCT version (c). Vista 4.0 |
| Development | 103.160.4.79 | 80/443 | Solaris | Vista 4.0 |
| | | | | |
| | | | | |
| LICENSE CONTACT | Title | Function | Email | Phone |
| Essary, Reba | Associate Vice President of Finance | Business Administrator | ressary@bama.ua.edu | 205-348-7917 |
| PRIMARY SUPPORT CONTACT | Title | Function | Email | Phone |
| Fitts, Bill | WebCT Developer | WebCT/E-Learning Administrator | bfitts@bama.ua.edu | 205-348-9780 |
| CE INSTITUTION & VISTA ONLY | | | | |
| SECONDARY SUPPORT CONTACT | Title | Function | Email | Phone |
| Walton, Richard | UNIX Systems Administrator | Information Systems | rwalton@bama.ua.edu | 205-348-4957 |
| BILLING CONTACT | Title | Function | Email | Phone |
| Harvey, Sherry | Site License Coordinator | Information Systems | sharvey@bama.ua.edu | 205-348-9809 |
| Bill to Street | | Box 870346 | | |
| Bill to City, State Zip | | Tuscaloosa, AL 35487-0346 | | |

91157,

PC 011577
R0011999

Blackboard Order Schedule

Blackboard Inc., 1899 L Street NW, 11th Floor, Washington, DC 20036

The Board of Trustees of the University of Alabama

| Product Description | Product ID | Qty. | Units | Total Price |
|-------------------------------|----------------------|------|-------|-------------|
| VISTA ENTP PERP BASIC SPT RNW | CT/VPBASCSPTRN WL | 1 | YR | \$80784.00 |
| Total: | | | | \$ 80784.00 |

For: FTE 15,001 - 25,000

For period: 12/15/2007-12/14/2008

Unless stated otherwise above, fees shown above are in US Dollars. If Blackboard Learning System™ - CE Enterprise Ltd. (formerly, WebCT Campus Edition Institution), Blackboard Learning System™ - CE Basic (formerly, WebCT Campus Edition Focus), a Vista Module(s), and/or any associated Support Services are listed on this Order Schedule, such product(s) shall be provided subject to the terms and conditions of the Software License Agreement for WebCT Campus Edition or the Software License Agreement for WebCT Campus Edition Software and/or WebCT Vista Modules (as applicable) between Licensee and WebCT, Inc., to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If Blackboard Learning System™ - Vista Enterprise (formerly, WebCT Vista Enterprise) and/or any associated Support Services are listed on this Order Schedule, such product(s) shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between Licensee and WebCT, Inc., to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

By signing this Order Schedule, you acknowledge and agree that Blackboard Inc. will replace and assume all of the billing and servicing obligations of WebCT, Inc. under your existing agreement for the products and services described above. The terms of your agreement will remain unchanged in all other respects, and there is no further action required on your part other than the execution and return of this Order Schedule to the vendor.

If your existing agreement contained a multi-year license period, migration license period, perpetual license, warranties or other terms that ran from the original date of execution or delivery, such time periods shall automatically continue without extension.

LICENSEE: The Board of Trustees of the University of Alabama BLACKBOARD INC.

By: _____


(Authorized Signature)

By: _____

(Authorized Signature)

Name:

Reba J. Essary

Name:

Title:
Associate Vice President
for Finance

Title:

Date:

11/20/07

Blackboard Order Schedule

Blackboard Inc., 1899 L Street NW, 11th Floor, Washington, DC 20036

University of Alabama at Tuscaloosa

| Product Description | Product ID | Qty. | Units | Total Price |
|------------------------------|----------------|------|-------|-------------|
| VISTA PERP SUPPORT HE 15-25K | AS-VEPTES-HE06 | 1 | YR | \$83400.00 |
| Total: | | | | \$83400.00 |

For: FTE 15000 - 25000

For period: 12/15/2008 – 12/14/2009

Unless stated otherwise above, fees shown above are in US Dollars. If Blackboard Learning System™ - CE Enterprise Ltd. (formerly, WebCT Campus Edition Institution), Blackboard Learning System™ - CE Basic (formerly, WebCT Campus Edition Focus), a Vista Module(s), and/or any associated Support Services are listed on this Order Schedule, such product(s) shall be provided subject to the terms and conditions of the Software License Agreement for WebCT Campus Edition or the Software License Agreement for WebCT Campus Edition Software and/or WebCT Vista Modules (as applicable) between Licensee and WebCT, Inc., to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

If Blackboard Learning System™ - Vista Enterprise (formerly, WebCT Vista Enterprise) and/or any associated Support Services are listed on this Order Schedule, such product(s) shall be provided subject to the terms and conditions of the WebCT Software License Agreement for WebCT Vista between Licensee and WebCT, Inc., to which this Order Schedule, when fully-executed, shall be attached and made a part thereof.

By signing this Order Schedule, you acknowledge and agree that Blackboard Inc. will replace and assume all of the billing and servicing obligations of WebCT, Inc. under your existing agreement for the products and services described above. The terms of your agreement will remain unchanged in all other respects, and there is no further action required on your part other than the execution and return of this Order Schedule in the ordinary course.

LICENSEE:

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

BLACKBOARD INC.

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

**ADDENDUM TO THE LICENSE AND SERVICES AGREEMENT SOFTWARE SCHEDULE(S) BETWEEN
BLACKBOARD AND UNIVERSITY OF ALABAMA AT TUSCALOOSA ("CUSTOMER")**

This Addendum between Blackboard ("Blackboard") and Customer is effective as of December 15, 2009 pursuant to the License and Services Agreement Software Schedule(s) entered into between the parties on December 13, 2005 (the "Schedules").

Whereas Blackboard desires to offer to Customer the option to lock in Software pricing for a period of up to three (3) years at an annual increase of (10%) in year 1 for Renewal Term beginning in December 15, 2009 through December 14, 2010, and no more than five (5%) percent per year in years two and three effective for Renewal Terms beginning in December 15, 2010 through December 14, 2012, and;

Whereas Customer desires to lock in Software pricing for a period of up to three (3) years at an annual increase of (10%) in year 1 for Renewal Term beginning in December 15, 2009 through December 14, 2010, and no more than five (5%) percent per year in years two and three effective for Renewal Terms beginning in December 15, 2010 through December 14, 2012, and;

The parties hereby agree to the following:

Customer licenses from Blackboard the following Software product(s) on an annual basis:

Blackboard Vista Enterprise License

1. Blackboard and Customer agree that provided Customer commits to three additional Renewal Terms, annual fees for the licensed Software indicated above not to exceed three years as indicated in the table below.

| PRODUCT | Renewal Term of 12/15/2009-12/14/2010 | Renewal Term of 12/15/2010-12/14/2011 | Renewal Term of 12/15/2011-12/14/2012 |
|--|--|--|--|
| BLACKBOARD VISTA ENTERPRISE ANNUAL RENEWAL AS-VEPTES-HE06 | \$98,100 ¹ | \$103,000 ² | \$108,200 ³ |

*Unless otherwise indicated in Customer's Software Schedule(s), payment of annual license fees shall be due and payable Net 30 from the start of each term.

2. It is understood and agreed by the Parties that the three year pricing visibility is contingent upon Customer's commitment to the three Renewal Terms outlined above.
3. Thereafter, Customer's pricing shall be pursuant to Blackboard's then current annual pricing.

All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date written below.

BLACKBOARD

UNIVERSITY OF ALABAMA AT TUSCALOOSA

Signature

Signature

Print Name and Title
Tess Frazier, Vice President

Print Name and Title

Date

Date

^{1,2,3} FTE not to exceed 25K



**BLACKBOARD LICENSE AND SERVICES AGREEMENT
COVER PAGE**

The attached documents describe the relationship between Blackboard and the Customer identified below. The documents attached to this cover page will consist of the Master Terms, dated March 1, 2001, 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 and Master Terms, and all Schedules that are attached to such Master Terms and are separately executed by the Parties. This Agreement will become effective October 1, 2011.

| CUSTOMER INFORMATION: | | | |
|------------------------------|--|---------------------------|----------------------|
| Name/Company: | The Board of Trustees of the University of Alabama | Principal Contact Person: | Shuttleworth, Rachel |
| Fax: | | Phone: | 205/348-0216 |
| Address: | Tuscaloosa, AL 35487 USA | | |
| Billing Contact: | | | |
| Address: | Accounts Payable Box 87137 Tuscaloosa, AL 35487 USA | | |
| Phone: | | E-mail Address: | |
| Fax: | | | |

IN WITNESS WHEREOF, the parties hereto have executed this cover page as of the date written below.

| | |
|--|--|
| BLACKBOARD | CUSTOMER: The Board of Trustees of the University of Alabama, a public corporation, on behalf of the University of Alabama |
| | |
| Signature TESS FRAZIER- VICE PRESIDENT | Signature Reba J. Essary |
| Print Name and Title Date: <i>12/13/11</i> | Print Name and Title Date: <i>12/13/11</i> |

University of Alabama Pricing Summary

| Product Description | Product ID | Initial Term Year 1 10/1/11-9/30/12 | Initial Term Year 2 10/1/12-9/30/13 | Initial Term Year 3 10/1/13-9/30/14 |
|---|---------------|---|---|---|
| LRN ACAD COLLAB HENA 25-50K Includes: • COURSE DELIV HENA 25-50K • CMTY ENGAGE HENA 25-50K • CONTENT MGMT HENA 25-50K | AS-LAC-HENA05 | \$ 229600 | \$ 229600 | \$ 229600 |
| Price Reduction | | <\$229600> | <\$139,023> | <\$110,309> |
| COURSE DELIV TEST | AS-LSFREETEST | \$ 0 | \$ 0 | \$ 0 |
| CMTY ENGAGE TEST | AS-CMFREETEST | \$ 0 | \$ 0 | \$ 0 |
| CONTENT MGMT TEST | AS-CSFREETEST | \$ 0 | \$ 0 | \$ 0 |
| COURSE DELIV - DEVELOPER | AS-LSDEVFREE | \$ 0 | \$ 0 | \$ 0 |
| TOTAL | | \$ 0 | \$ 90,577 | \$ 119,291 |

| Designated Server Site (Physical Location of the Software): | Database Version: | Operating System: | Hardware Model: |
|---|-------------------|-------------------|-----------------|
| HOSTED BY BLACKBOARD | | | |
| Customers FTE/User Band: 28000 | | | |



**SOFTWARE SCHEDULE
BLACKBOARD LEARN™ SOFTWARE SCHEDULE**

This Blackboard Learn™ Software Schedule ("Schedule") is made as of the last date indicated below, by and between Blackboard and University of Alabama ("Customer") and is an addendum to the Blackboard License And Services Agreement between Blackboard and Customer, including the Master Terms, the applicable Pricing Summary and other Schedules incorporated therein (collectively, the "Agreement"). 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 foregoing premises, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereby agree as follows:

1. ADDITIONAL DEFINITIONS

- 1.1 **"Blackboard Learn™ Software"** consists of the following packages, each of which is licensed separately:
- (a) "Blackboard Learn™ for Course Delivery" consisting of the course delivery module.
 - (b) "Blackboard Learn™ for Community Engagement" consisting of the course delivery and community engagement modules.
 - (c) "Blackboard Learn™ for Academic Content" consisting of the course delivery and content management modules.
 - (d) "Blackboard Learn™ for Academic Collaboration" consisting of the course delivery, community engagement, and content management modules.
 - (e) "Blackboard Learn™ for Outcomes Assessment" consisting of outcomes assessment.
- 1.2 **"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 API, and/or later incorporated into Updates or Upgrades.
- 1.3 **"Authorized End User"** means any individual who is a student resident in a degree- or certificate-granting program of Customer, prospective student, alumni, consortium 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.
- 1.4 **"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.
- 1.5 **"Designated Server Site"** means the physical location where the Software will be installed, as identified in the Pricing Summary.
- 1.6 **"Pricing Summary"** means the pricing attributable to the software and services provided pursuant to the Schedule as set forth on the cover page to the Agreement.
- 1.7 **"Software"** means, for purposes of this Schedule only, the Blackboard Learn proprietary software, as identified in the Pricing Summary, which contains one or more of the following packages: Blackboard Learn for Course Delivery, Blackboard Learn for Community Engagement, Blackboard Learn for Academic Content, Blackboard Learn for Academic Collaboration, and Blackboard Learn for Outcomes Assessment, including Updates, Upgrades, Corrections, and Application Packs thereto. Each package is licensed separately.
- 1.8 **"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.
- 1.9 **"Supported Interface"** means application-based interfaces (API) provided pursuant to the *Blackboard Building Blocks®* program, to the extent the program is available, network protocols, data formats, database schemas, and file formats available for use in the Software as expressly specified in the Documentation.
- 1.10 **"Third-Party Software"** means the software or content manufactured or created by third parties that has been incorporated by Blackboard into the Software.
- 1.11 **"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 solution, including Application Packs.
- 1.12 **"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 solution.

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 (i) to install and use one (1) production copy and one unsupported Test Copy of the Software for one installation at Customer's Designated Server Site, solely in the form of machine-readable, executable, object code or bytecode, as applicable, and solely in connection with providing access to Customer Content to Customer's Authorized End Users (unless otherwise expressly stated in the special provisions of the Pricing Summary) and to use the Documentation provided, however, that such Test Copy may be used to the extent required for and for the sole purposes of application clustering and/or load balancing, (a) on a group of 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 multiple managed node servers or (b) on multiple managed nodes that are configured and deployed on a single physical host that manages the self contained nodes. Customer acknowledges and understands that, in the event it wishes to use the Software for any purposes other than those expressly permitted by the foregoing, including, without limitation, 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 or, if applicable, any special provisions set forth on the Pricing Summary. 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 or Documentation, 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 reason. 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 to anyone other than Authorized End Users without Blackboard's prior written consent; provided, however, that Customer may provide access to *Blackboard Building Blocks*[®] partners that are subject to a valid Blackboard developer's license agreement for the limited purpose of installing, maintaining and supporting their *Blackboard Building Blocks*[®] applications. Customer shall ensure that its use of the Software complies with all applicable laws, statutes, regulations or rules promulgated by governing authorities having jurisdiction over the Parties or the Software. Customer will make reasonable efforts to ensure 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 Further Restrictions. Customer acknowledges that certain Blackboard Software contains an "Auto Report" feature, which feature 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.

2.4 Interoperability. To the extent permitted by the specifications as outlined in the Documentation for the Software at <http://behind.blackboard.com>, 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 2.4 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.

2.5 Third Party Software/Content. Customer acknowledges that the Software may utilize software and/or content made available to Blackboard by third parties, which shall constitute "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 Customer's own instructional activities.

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 or 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. Blackboard Software is priced annually based upon Blackboard User Bands. Blackboard User Bands are comprised of the FTE (as defined below) of licensing institution PLUS the number of Users in outside programs. Pricing is based on Customer's FTE. Customer agrees that the FTE provided to Blackboard is correct and accurate to the best of its knowledge. For the Software on this Schedule, Customer's license for the Software on this Schedule shall be expanded in increments as indicated below and Blackboard will assess additional license fees for increases in Customer's FTE. Blackboard's User Bands are as follows:

BLACKBOARD LEARNTM SOFTWARE:

Blackboard Band

| |
|------------------|
| 1-2000 |
| 2,001 to 4,000 |
| 4,001 to 8,000 |
| 8,001 to 15,000 |
| 15,001 to 25,000 |
| 25,001 to 50,000 |

ADDITIONAL bands of 25,000 will be priced separately

"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 Blackboards 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, and 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.

REB
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 October 1, 2011, and shall continue in effect for a period of three (3) years (the "Initial Term"). Thereafter, the Schedule may renew, with mutual agreement of the parties, 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 the applicable Documentation for a period of ninety (90) days after the initial 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 Client Support Services Guide located on Blackboard's website at <http://library.blackboard.com/docs/support/supportiveguide.pdf>, which Blackboard reserves the right to modify, from time to time, effective five (5) days after such modified document is posted at the relevant link, such posting to constitute effective notice of changes.

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

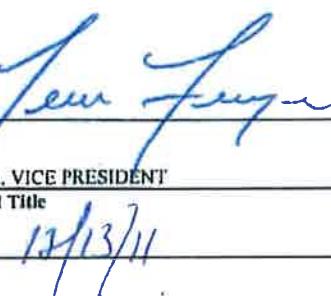
BLACKBOARD

Signature

TESS FRAZIER, VICE PRESIDENT

Print Name and Title

Date:



12/13/11

CUSTOMER: The Board of Trustees of
The University of Alabama,
a public corporation

Signature



Reba J. Essary
Associate Vice President
for Finance

Print

Date:

12/13/11

BLACKBOARD LEARN DEVELOPER'S NETWORK SCHEDULE

This Blackboard Developer's Network Schedule ("Schedule") is made as of the last date indicated below, by and between Blackboard and University of Alabama ("Developer") and is an addendum to the Blackboard License and Services Agreement between Blackboard and Developer, 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 foregoing promises, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereby agree as follows:

1. Program Description.

1.1 Blackboard Inc. ("Blackboard") desires to create a community of developers who design software that is interoperable with Blackboard's existing software. In order to do so, Blackboard makes available, subject to the terms of this Agreement, membership in a Blackboard Developers Network (the "Developers Network" or "BbDN"). Members of the BbDN have access to a Software Development Kit (the "SDK"), a package containing APIs and documentation that allow you to write code that interfaces with certain Blackboard software, reference materials and other documentation, support provided via a community discussion forum and a copy of Blackboard Academic Suite™. If you wish to join the Developer's Network and get access to the SDK and other benefits of membership, you must agree to the terms of this Agreement. This program relates to the Blackboard Learn applications only.

2. Definitions.

2.1 "Blackboard" means:

(a) for a Developer downloading the Blackboard Software to an address in the United States or Canada, Blackboard Inc., a Delaware corporation with its principal place of business at 650 Massachusetts Avenue, NW, 1st floor, Washington, DC 20001; or (b) for a Developer downloading the Blackboard Software to an address outside the United States or Canada, Blackboard International B.V., a Netherlands company.

2.2 "Blackboard Software" means the Blackboard software, limited to a maximum of 150 users, 100 courses, and 1,000 enrollment records, provided pursuant to this Agreement, and Supported Interfaces (and any Documentation and help files included within such software), as well as any additional materials that Blackboard may, in its sole discretion, provide, such as corrections, updates and Upgrades. Blackboard shall have no obligation to provide such additional materials, and any such additional materials that it does provide shall be deemed to be part of the Blackboard Software under this Agreement.

2.3 "Customers" means those persons, organizations or entities that have licensed from Blackboard one or more components of the Blackboard Software.

2.4 "Derivative Work(s)" shall have the meaning currently ascribed to it under the Copyright Act at 17 U.S.C. § 101 – a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which the preexisting work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

2.5 "Developer Software" means: (i) software application programs created by the Developer that are designed to operate in combination with the Blackboard Learn™ software that is provided pursuant to this Agreement; and (ii) all documentation for these software application programs; provided that: (a) the software application programs and documentation are authored or created by Developer or on Developer's behalf and that such software programs do not contain intellectual property from the Blackboard Software, and (b) the software application programs do not incorporate any part of the Blackboard Software, other than the connectors into the APIs of the Blackboard Software; or (c) such software applications programs and documentation do not otherwise constitute a Derivative Work of the Blackboard Software.

2.6 "Developer's Network Information" means the sample software code developed by Blackboard pursuant to the Developer's Network, related Documentation and other proprietary information made available to Developer as a result of this Agreement.

2.8 "Purpose" means the purpose of this Schedule, which is to create a community of developers who design software that is interoperable with Blackboard's existing software.

2.7 "Specifications" means the technical specifications for the Blackboard Software as set forth in the applicable documentation.

2.8 "Supported Interfaces" means application programming interfaces ("API"), network protocols, data formats, database schemas, and file formats used in the Blackboard Software as described in the Documentation.

2.9 "Upgrades" mean the object code versions of the Blackboard 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 has 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).

3. Obligations

3.1 General. Developer shall use the Blackboard Software to develop the Developer Software in a manner and for purposes that are consistent with the Purpose of this Schedule.

3.2 Blackboard Obligations.

3.2.1 Blackboard shall provide Developer with: (a) access to the Developer's Network Information; and (b) one (1) copy of the Blackboard Software, pursuant to the licenses in Section 4 below, together with Documentation to assist in developing the Developer Software. 3.2.2 For thirty (30) days after the Effective Date, Blackboard shall provide web-based technical support, for installation purposes only, to two (2) technical contacts at Developer's location who are the only individuals who may contact Blackboard regarding installation support services. Developer may change its technical contacts as long as Blackboard is informed in writing and the list does not exceed two (2) contact personnel. Such support will be available Monday through Friday from 8:00 AM to 8:00 PM EST, except federal holidays. Except with regard to the foregoing, Blackboard will have no obligation to provide: (a) any support regarding the Blackboard Software, (b) any development tools for, or updates to, the Blackboard Software, and (c) any maintenance or training for the Blackboard Software.

3.3 Developer Obligations.

3.3.1 Developer agrees and represents that it shall develop the Developer Software in accordance with the Purpose of this Schedule and to enable simple installation and integration of the Developer Software into the Blackboard Software, as installed by a Customer.

3.3.2 Developer shall provide its standard customer support to Customers using and installing the Developer Software. Developer shall be solely responsible for providing all end-user support for any Developer Software.

3.3.3 Prior to permitting a third party to resell or distribute the Developer Software, Developer shall provide Blackboard a right of first refusal to resell or distribute the Developer Software based upon mutually agreeable terms which shall be no worse than the most favorable terms granted to such third party.

3.3.4 Developer shall not disable the Auto Reporting Option of the Blackboard Software.

Peter [Signature]

3.2.5 The Developer may provide consulting services to third parties relating to the Developer Software, but the Developer shall not use the Blackboard Software licensed to the Developer under this Schedule to provide consulting services that are related to the Blackboard Software and not the Developer Software.

4 License

4.1 Developers' Network Information Grant. Solely in connection with the Purpose of this Schedule, Blackboard hereby grants to Developer, and Developer hereby accepts from Blackboard, a limited, nonexclusive, nontransferable right and license to download, review and use up to twenty five (25) copies of the Developer's Network Information on the Internet or Intranet server or servers at Developer's site. Developer may use the Developer's Network Information solely in connection with its own internal development purposes in connection with the Purpose of this Schedule. Developer may copy the Developer's Network Information, or any portion thereof, in whole or in part only for the Purpose of this Schedule.

4.2 Blackboard Software License Grant. Solely in connection with the Purpose of this Schedule and the development of the Developer Software, Blackboard hereby grants to Developer, and Developer hereby accepts from Blackboard, a nontransferable, nonexclusive right and license to use the copy of the Blackboard Software provided to Developer by Blackboard, but only at the address at which Developer provides pursuant to this Schedule (or other locations, provided that Developer notifies Blackboard in writing and Blackboard does not object within ten (10) days of receiving such notice), and solely for the purposes of: (1) creating the Developer Software at the Designated Server Site; and (2) supporting the Developer Software at the Designated Server Site. No right is granted to distribute all or any portion of the Blackboard Software or the Documentation. In the event that Developer desires to receive a license to use the Blackboard Software other than in connection with development or support of the Developer Software, or on operating system other than the one at the Designated Server Site, such license shall be pursuant to a separate license agreement. Developer may only make one (1) backup copy of the Blackboard Software for its own internal purposes, but otherwise may not copy, duplicate or reproduce the Blackboard Software in any manner.

4.3 Third Party Software/Content. Developer acknowledges that the Blackboard Software may utilize software and/or content made available to Blackboard by certain third parties (the "Third Party Software"). Pursuant to its agreements with such third parties, Blackboard hereby grants to Developer a non-exclusive, nontransferable and sublicensable right and license to load and/or operate and use the Third Party Software solely to the extent of the license in Section 4.2.

4.4 Termination of Access to Third Party Software. Blackboard's licensors and suppliers reserve the right, at their discretion, to restrict, suspend or terminate Developer's access to all or any part of the Third Party Software at any time for any reason without prior notice or liability. Blackboard's licensors and suppliers may change, suspend or discontinue all or any aspect of the Third Party Software, including the availability, without prior notice or liability.

4.5 No Other Rights Granted. Apart from the licenses expressly granted in Sections 4.1 and 4.2, no license or other right is granted by Blackboard to Developer under this Schedule. Developer shall have no right or access to the source code of the Blackboard Software. Developer shall appoint no resellers, other developers, or sub-distributors or APIs of the Blackboard Software, and shall not permit any third party to access the Blackboard Software, including, without limitation, any subcontractors for the purpose of subcontracting the development of the Developer Software.

4.6 Nondisclosure and Nonuse. Developer shall (a) disclose Developer's Network Information during the term of this Agreement to only 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 Developer's Network Information; and (b) use such Developer's Network Information during the term of this Agreement only for the Purpose set forth in this Agreement. Developer shall treat the Developer's Network Information as strictly confidential, and shall use the same care to prevent disclosure of such information as it uses with respect to its own confidential and proprietary information, which shall not be less than the care a reasonable person would use under similar circumstances.

4.7 Restrictions. Except as may be expressly permitted during the Term of this Agreement in Section 4.2, Developer shall not: (a) modify, decompile, disassemble, decrypt, extract, or otherwise reverse engineer the Blackboard Software or any part thereof, or grant any other person or entity the right to do so or take any action that would assist any other person or entity in doing so (and Developer will promptly notify Blackboard of any information that any other person or entity is or is attempting to copy, reverse engineer, disassemble, decompile, translate or modify the Blackboard Software); (b) modify, delete, replace, change, prepare derivative works of or otherwise alter any files in the Blackboard Software; (c) loan, rent, lease, give, sublicense, distribute, transfer, publish, disclose, display, or otherwise make available the Blackboard Software, in whole or in part, to any other person or entity except as expressly permitted herein; (d) use the Blackboard Software in connection with the development of any products other than the Developer Software or (e) transmit the Blackboard Software over a network or from one computer to another (other than on a limited basis within Developer's local area network), or upload the Blackboard Software to electronic bulletin boards, web sites, or otherwise distribute them (or any portion), whether electronically, or on tangible media.

5 Marketing

5.1 License for Marks. Contingent upon the requirements set forth in this Section 5, Blackboard grants to the Developer, for the term of this Schedule, a limited, nonexclusive, royalty-free license to use the "Blackboard™", the "Bb" logo, and "Blackboard Building Blocks™", "Blackboard Developer's Network™", "Blackboard Developer's Network Catalog", "BbDN", "Blackboard PowerLinks™", "Blackboard PowerLinks DevNet" trademarks and trade names, each only in order to show that Developer is a member of the Developer's Network and that the Developer Software is compatible with the Blackboard Software (the "Blackboard Licensed Marks"). Developer grants to Blackboard a limited, nonexclusive, royalty-free license to use the following Marks: (1) the Developer's corporate name and/or trade name, (2) the Developer's corporate logo, and (3) the product name of the Developer Software developed under this Schedule, each only in order to identify Developer Software that is compatible with the Blackboard Software (the "Developer-Licensed Marks"). Collectively, the Blackboard Licensed Marks and the Developer-Licensed Marks shall be referred to as the "Licensed Marks". Each of these two This licenses is contingent on the requirements that each Party: (a) does not create a unitary composite mark involving a Mark of the other Party Blackboard's without the prior written approval of such other Party Blackboard; (b) displays symbols and notices clearly and sufficiently, indicating the trademark status and ownership of the other Party Blackboard's Marks in accordance with applicable trademark law and practice; and (c) uses the other Party Blackboard's Marks in a manner that is consistent with the Purpose of this Schedule. In no event shall Developer use the word "Blackboard" in the name of any of its products or services, including, without limitation, the use of "[product] for Blackboard". Each Party acknowledges that its utilization of the Licensed Marks under this Schedule will not create in, nor will it represent that it has any right, title or interest in or to such Licensed Marks other than the licenses expressly granted herein. Blackboard may, but is not obligated to, list the Developer-Licensed Marks on web sites and product marketing materials associated with the Developer's Network and the Blackboard Building Blocks and Blackboard PowerLinks Programs.

Neither Party will do anything to contest or impair the trademark rights of the other Party and will comply with such Party's standard trademark usage guidelines as such Party may provide from time to time.

5.2 **Press Releases**. Subject to Section 7.3, any news release, public announcement, marketing materials, advertisement or publicity proposed to be released by either Party concerning the activities of either Party in connection with this Schedule, including the Developer Software, will be subject to the written approval of the other Party prior to release. Any such publicity shall be consistent with the Purpose of this Schedule and will give due credit to the contribution of each Party.

5.3 **Marketing Costs**. Any costs of promotion and marketing shall be borne solely by the respective Party, and nothing in this Schedule shall be interpreted to require promotion of products or services through marketing media forms which either Party normally charges a fee to provide.

5.4 **Marketing Materials**. Each Party will submit to the other Party for its prior written approval, which shall not be unreasonably withheld, any marketing materials to be used in connection with performing its obligations or rights under, or related to, this Schedule, including but not limited to business card, website or jewel case design, that incorporates any of the other Party's Marks. Each Party will undertake to respond to any such request for approval within ten (10) business days in a reasonable period of time. Each Party reserves the right to disapprove such marketing materials if it reasonably determines that its Marks are improperly used or if the marketing materials do not accurately represent the business relationship between the Parties or the services or products of the other Party.

5.5 **Quality Standards**. Each Party agrees that the nature and quality of its products and services supplied in connection with the other Party's Marks shall conform to quality standards communicated in writing by the other Party for use of its Marks. Each Party agrees to supply the other Party, upon request, with a reasonable number of samples of any marketing or other materials publicly disseminated by such Party which utilize the other Party's Marks. Each Party shall comply with all applicable laws, regulations and customs and obtain any required government approvals pertaining to use of the other Party's Marks.

5.6 **Infringement Proceedings**. Each Party agrees to promptly notify the other Party of any unauthorized use of the other Party's Marks of which it has actual knowledge. Each Party shall have the sole right and discretion to bring proceedings alleging infringement of its Marks or unfair competition related thereto; provided, however, that each Party agrees to provide the other Party, at such other Party's expense, with its reasonable cooperation and assistance with respect to any such infringement proceedings.

6 Ownership and Intellectual Property Rights

6.1 **Ownership of Blackboard Intellectual Property**. Except as specifically set forth in this Schedule, no title to or ownership of any portion of the Developer's Network Information or Blackboard Software as well as any other products or services manufactured, sold and/or distributed or otherwise made available by Blackboard, or to any proprietary rights related to those products/services, is transferred pursuant to or by virtue of this Schedule and all rights and interest to the foregoing shall remain the sole and exclusive property and proprietary information of Blackboard.

6.2 **Ownership Rights in the Developer Software**. Developer retains all rights in the Developer Software that it creates pursuant to this Schedule, provided that the Developer Software does not contain or constitute Blackboard intellectual property.

6.3 **Ownership Rights in Derivative Works**. All Derivative Works of the Blackboard Software shall be owned exclusively by Blackboard. All Derivative Works shall be deemed to be "works made for hire." To the extent that title to the Derivative Works does not, by operation of law, vest in Blackboard or the Derivative Works are not considered "works made for hire," Developer hereby irrevocably assigns all right, title and interest therein to Blackboard. Blackboard, however, shall grant and hereby grants to Developer a nonexclusive, royalty-free, world-wide, license to use any such Derivative Works for the Purpose set forth in this Schedule during the Initial Term and any subsequent Renewal Terms. In the event that Blackboard permits Developer in writing to use non-employees to perform the obligations of Developer under this Schedule, Developer shall take all necessary action to secure on behalf of Blackboard all rights to the Derivative Works from such non-employees.

7 Term

7.1 **Initial Term**. The initial term of this Schedule will be three (3) years commencing on October 1, 2011 (the "Initial Term"). With mutual agreement of the parties, the Schedule may be renewed on a year-to-year basis for successive terms of one (1) year (each, a "Renewal Term"). Thereafter, either Party may terminate this Schedule by providing written notice to the other Party no later than thirty (30) days prior to the end of such one (1) year term.

7.2 **Termination**. Either Party may, at its option, terminate this Schedule if a material default by the other Party is not cured or waived within thirty (30) days after receipt of a written notice of the default. Notwithstanding the foregoing, Blackboard may terminate this Schedule immediately by written notice in the event of a breach of Sections 3, 4, 6, 7 and 9 herein. Either Party may terminate this Schedule immediately following written notice to the other Party if the other Party: (a) ceases to do business in the normal course, (b) becomes or is declared insolvent or bankrupt, (c) is the subject of any proceeding related to its liquidation or insolvency (whether voluntary or involuntary), other than a reorganization under Chapter 11 of the Bankruptcy Code, which is not dismissed within ninety (90) calendar days, or (d) makes an assignment for the benefit of creditors.

7.3 **Rights and Obligations upon Termination**. Termination of this Schedule shall not relieve either Party of any obligation or liability accrued hereunder prior to or in connection with such termination, except as expressly provided herein. Upon termination of this Schedule, and to the extent that Developer has received any physical copies of the Blackboard Software, Developer shall deliver to Blackboard all copies of the Blackboard Software for which licenses do not remain in force. Each Party shall also return any Confidential Information as well as any copies of marketing materials of the other Party it has in its possession. In addition, the Parties shall use commercially reasonable efforts to conclude existing projects in a manner that serves the best interests of Blackboard's Customers, at Blackboard's reasonable determination.

8 Fees and Payments

8.1 **Fees**. Developer shall pay Blackboard the annual license fee (if applicable) on the Effective Date for the first year for use of the Blackboard Software and participation in the Program and pay the then applicable amount charged by Blackboard, in its sole discretion, on the anniversary of the Effective Date for each subsequent year that the Developer uses the Blackboard Software to develop Developer Software or offers and/or supports the Developer Software for use by Customers.

8.2 **Payment**. Blackboard or its subcontractor shall submit an invoice to Developer and Developer's payments shall be due and payable to the invoicing Party within thirty (30) days after receipt of the invoice. Customer will pay all fees in U.S. dollars, unless otherwise specified on the applicable Blackboard-issued invoice.

9 Warranty

9.1 **Blackboard Warranties**. Blackboard represents and warrants that: (a) it has authorized the person who has signed this Schedule for Blackboard to execute and deliver this Schedule to Developer on behalf of Blackboard; (b) it and/or its suppliers and licensors possess all rights necessary to grant the rights herein; and (c) it will comply with all applicable local, national and international laws, regulations or other provisions in all material respects in performing its obligations under this Schedule.

9.2 **Developer Warranties**. Developer represents and warrants: (a) that it has authorized the person who has signed this Schedule for Developer to execute and deliver this Schedule to Blackboard on behalf of Developer; (b) the Developer Software shall be developed in a good

Customer: University of Alabama

and workmanlike manner and in compliance with the requirements and Purpose of this Schedule, and (c) that it will comply with all applicable local, national and international laws, regulations or other provisions in all material respects in performing its obligations under this Schedule.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date hereof.

BLACKBOARD

DEVELOPER: The Board of Trustees of the University of Alabama, a public corporation, on behalf of the University of Alabama

Signature

TESS FRAZIER-VICE PRESIDENT

Print Name and Title

Signature

Print Name and Title

Date:

Date:

*Rehse
TP*

STATE OF ALABAMA)
TUSCALOOSA COUNTY)

UNIVERSITY ADDENDUM

This Addendum is made a part of the Blackboard License and Services Agreement (hereinafter referred to as the "Agreement") by and between The Board of Trustees of The University of Alabama, a public corporation and constitutional instrumentality of the State of Alabama, by and through The University of Alabama, Tuscaloosa, Alabama ("University") and Blackboard Inc., ("Vendor").

WITNESSETH

1. This Addendum is a material part of the Agreement between the parties and neither the Agreement nor any portion thereof shall be deemed binding upon either party unless and until the Addendum is executed as herein provided.

2. Any designation of the names of the parties in the body of the referenced Agreement notwithstanding, the parties to the Agreement acknowledge and agree that the proper designation of the University is The Board of Trustees of the University of Alabama, a public corporation and constitutional instrumentality of the State of Alabama, by and through The University of Alabama.

3. The parties agree that the Agreement and this Addendum constitute the entire agreement between the parties and no party is responsible for terms or conditions not contained in the Agreement or Addendum. Any changes, additions or deletions to the Agreement or Addendum must be made in writing and signed by the parties hereto.

4. In the event of any conflict between any provision of this Addendum and any provision of the Agreement to which it is attached (whether strike-throughs are made on the Agreement or not), the provisions of this Addendum will control and shall be contracting and binding on the parties.

5. Nothing in the Agreement or this Addendum shall be deemed to constitute either party, or any employee, agent, or representative of either party, an employee, agent or representative of the other party.

6. No failure by the University to insist upon strict performance or compliance with any terms, provisions, covenants, conditions, or obligations of the shall be construed as a waiver or relinquishment for the future performance of such term, provision, covenant, condition, or obligation or option, but the same shall continue and remain in full force and effect.

7. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8. Notwithstanding any contrary provisions of the Agreement, the following provisions shall govern any disputes or questions of law. To the extent allowed by Alabama law the University agrees to indemnify or hold Vendor harmless from any claim that may arise pursuant to this Agreement. The University does not waive and specifically reserves all immunities to which it is entitled by the constitution, laws, and statutes of the United States and the State of Alabama, including, without limitation, the immunities contained within Article 1, section 14, of the Constitution of Alabama of 1901, the Eleventh Amendment of the United States Constitution, or any other applicable provision of law. Any claim against the University must be made through the Alabama State Board of Adjustment. Alabama law, without regard to its conflicts of law provisions, shall exclusively apply to the Agreement,

Addendum, questions of immunity related to the University, and any disputes between the parties. Any provisions of the Agreement which may be considered consent to suit or a waiver of immunity by the University is hereby stricken and rendered null and void.

9. Any provisions of the Agreement, present or future, to the contrary notwithstanding, the University does not agree to binding arbitration.

10. Vendor shall and does release, discharge, indemnify and hold harmless the Board of Trustees of the University, its trustees, directors, officers, employees, agents, representatives, and affiliated foundations, from any and all claims which arise out of, in connection with, or are related to software and services rendered pursuant to this Agreement.

11. This Agreement may be cancelled by University at any time with 30 days written notice should funds not be available to continue this contract.

12. The section of the Agreement titled "Blackboard Learn Developer's Network Schedule" on pages 6-9 of the Agreement is hereby deleted in its entirety.

13. The University of Alabama is a public institution as described in Alabama Department of Revenue Sales and Use Tax Rules, 810-6-3-.47.04, code of Alabama 1975, Sections 40-23-31 and 40-23-83 and is specifically exempted under the law from state sales and use taxes on all tangible personal property purchased for its sole use and benefit and under its control.

14. The Code of Alabama 1975 41-4-116 provides that every Contract executed shall contain a certification that the vendor, contractor, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting and remitting Alabama state and local sales, use and/or lease tax on all taxable sales and leases into Alabama. By accepting a purchase order or Contract, the Vendor is hereby certifying full compliance with Act No. 2006-557; are not barred from bidding or entering into a contract pursuant to 41-4-116; and acknowledge that The University of Alabama may declare the purchase order/Contract void if certification is false.

15. All provisions as to confidentiality shall be construed consistently with, and subject to, any applicable open records acts or freedom of information statutes, but only to the extent that the same require disclosure

16. Any confidentiality obligations imposed on the University with regard to Vendor materials, methods, techniques, services or software shall not apply to the extent that the same:

- a. are or become publicly available other than as a result of acts by the University in violation of the agreement;
- b. are in the possession of or known to the University prior to disclosure by Vendor;
- c. are or become available to the University from a source that, to the University's knowledge, is not bound by an agreement with Vendor prohibiting disclosure; or
- d. are in or become part of the public domain.

17. Vendor shall not issue any press releases nor post information regarding the Agreement or the relationship of the parties, without prior written approval from the University's Office of University Relations and Office of Counsel.

18. Vendor acknowledges and agrees that The University of Alabama owns all rights, title, and interests in and to its University Indicia and that each of the University Indicia is valid. Contractor agrees that "University Indicia" shall include, without limitation, the University's trademarks, service marks, designs, team names, nicknames, abbreviations, trade dress, uniforms, helmet designs, city/state

names in the appropriate context, slogans, logo-graphics, mascots, seals, colors, and other symbols associated with or referring to the University that are adopted and used or approved for use by the University. Contractor shall not have any right to use any of the University Indicia or any similar mark as, or as part of, a trademark, service mark, trade name, fictitious name, domain name, company or corporate name, a commercial or business activity, or advertising or endorsements anywhere in the world without the prior express written consent of the University.

19. By accepting payments agreed to in this Agreement, Vendor certifies that to its actual knowledge no University employee or official, and no family members of a University employee or official, will receive a benefit from these payments, except as has been previously disclosed, in writing, to the University on the attached Disclosure Statement of Relationship Between Contractors/University and Employees/Officials of The University of Alabama.

20. A copy of any legal notice sent by Vendor, or received by Vendor from third party, will be sent to UA Office of Counsel, 222 Rose Administration Building, Tuscaloosa, AL 35487.

21. Vendor warrants and represents that it will obtain all licenses, registrations, and permissions necessary to perform the services in the State of Alabama.

22. Any expense or vendor travel related reimbursements The University shall be responsible for related to the services to be performed under the Agreement shall be in compliance with the University's Vendor Travel Guidelines (Exhibit A attached).

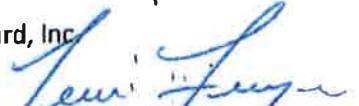
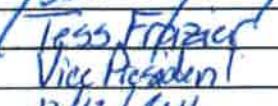
23. The persons designated by the University as the "End User Contact" for purposes of any of the Agreements does not have authority to bind the University to contracts.

24. The representative of University in executing this Agreement and Addendum represents that she signs as a properly authorized representative of University and does not assume any personal liability for compliance with the terms and conditions of this Agreement. Vendor's representative represents and warrants that he is the duly appointed agent and representative of Vendor with full authority to execute the Agreement and this Addendum, without any further requirements or approvals.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their authorized representatives on the dates set out below.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA

By: 
Reba J. Essary
Associate Vice President for Finance
Date: December 13, 2011

Blackboard, Inc.

By: 
Its: Vice President
Date: 12/13/2011

PLEASE COMPLETE, SIGN, AND RETURN TO THE UNIVERSITY

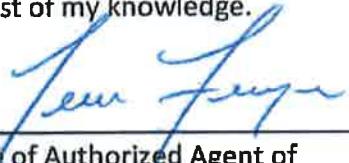
**DISCLOSURE STATEMENT OF
RELATIONSHIP BETWEEN CONTRACTORS/GRAANTEES AND
EMPLOYEES/OFFICIALS OF THE UNIVERSITY OF ALABAMA
(THE "UNIVERSITY")**

1. Contract No.: N/A
2. Name of Contractor/Grantee: **BLACKBOARD, Inc.**
3. Nature of contract/grant: Software License
4. Does the contractor/grantee have any relationship with any employee or official of the University, or a family member of such employee or official, that will enable such employee or official, or his/her family member, to benefit from this contract/grant? If so, please state the names, relationships, and nature of the benefit.
N/A

(For employees of the University, family members include spouse and dependents. For members of the Board of Trustees (officials), family members include spouse, dependents, adult children or their spouses, parents, in-laws, siblings, and their spouses.)

This Disclosure Form will be available for public inspection upon request.

The above information is true and accurate, to the best of my knowledge.



Signature of Authorized Agent of
Contractor/Grantee

Date 12/13/2011

EXHIBIT A:

VENDOR TRAVEL GUIDELINES

Invoicing for Travel Expenses: The total request for reimbursement must be invoiced after completion of the trip. Receipts and other documentation of the total costs of the trip (including any prepaid expenses) must be submitted along with the invoice. Any expenses covered by a third party should be noted.

Documentation of Costs: Vendors are required by the University to present original receipts for all travel expenses that require documentation: that is, lodging, airfare, rail fare, car rental and gasoline, and any unusual expenses. In addition, the University requires that all invoiced travel expenses of \$75 or more be documented. Reimbursement for meals in excess of \$25 per person requires a restaurant receipt that itemizes the food and beverages. Credit card slips are not acceptable documentation for meals in excess of \$25 per person.

Telephone Calls: Personal calls made from a hotel and itemized on the hotel receipt should not be included on the invoice. Business-related calls should be noted on the travel voucher.

Prohibited Expenses: The University's funds may not, by federal law, be used to make reimbursements for business entertainment expenses incurred during official travel. The University does not reimburse Vendors for:

- purchases of alcoholic beverages
- travel expenses incurred by spouses or other family members
- travel insurance
- airline excess baggage charges
- medical expenses incurred during travel
- safe charges
- internet charges
- personal sundries and supplies
- entertainment of University personnel
- Rental car "convenience" charges

Travel Route: Vendors should use the most economical route available. Mileage is calculated from the Vendors official business address. If official travel begins at home and home is closer to the destination, mileage is calculated from home. The distance to the Birmingham airport from the Tuscaloosa campus of the University is assumed to be 60 miles each way.

Taxis: During official University travel, taxis may be hired when no other, more economical public transportation is readily available. A written explanation is required for each taxi trip except the trip from and to the airport or rail station at the destination. Submit explanations for all other taxi trips with the travel voucher. The University typically does not reimburse Vendors for taxi fare to and from meals.

Air Travel: When traveling by commercial airline on official University business, Vendors should plan well in advance and obtain the most economical fare available. Only coach/economy fares are reimbursable; the maximum amount you may invoice the University for is the coach, discount coach, or economy fare to the Birmingham, AL airport. The original passenger copy of the ticket must be submitted with the invoice. The costs of ticket life insurance, airline cancelations fees or charges, and ticket cancellation insurance are not reimbursable.

Rail Travel: Original receipts for rail fares, as well as the passenger copy of the ticket, must be submitted with the invoice. The University will not reimburse Vendors for rail fares that exceed the cost of the 14-day coach/economy airfare to the destination.

Local (Auto) Transportation: Vendors may be reimbursed at the federal mileage rate. State the date, destination, and reason for the trip, along with the recorded mileage, on the invoice. Any automobiles brought on campus must be properly registered with the Department of Transportation and display a valid parking permit at all times. The cost of parking permits is not reimbursable. Parking on campus for private automobiles is not available and travel on campus should be via the University's campus transportation services. However, if extenuating circumstances exist, documentation of these circumstances must be submitted with the Invoice.

Lodging: Accommodations should be prudently planned, so that the best interests of the University are served at the most reasonable cost. Anyone traveling on University business is expected to exercise the same economy that a practical person would exercise when traveling on personal business. When a Vendor invoices the University for lodging expenses, itemized folio receipts must accompany the invoice. Credit card receipts are unacceptable. The dates of occupancy, the number of nights invoiced, the names of all occupants of the room, and the total amount charged for lodging must be recorded on the invoice.

Meals: Vendors performing services for the University in Tuscaloosa are reimbursed for the actual cost of their meals, up to \$45.00 a day per person.

Gratuities: Tips to food servers, taxi drivers, and room cleaning staff are reimbursable when they are at acceptable levels and deemed by the University to be reasonable and necessary. Gratuities claimed as travel expenses should be consistent with the amounts generally accepted in the geographical location for the type of services provided and under any special circumstances.

Baggage Handling: Baggage handling expenses will be reimbursed if they are incurred when traveling to or from the place of lodging or when traveling to or from the airport or train station."



**BLACKBOARD LICENSE AND SERVICES AGREEMENT
COVER PAGE**

The attached documents describe the relationship between Blackboard and the Customer identified below. The documents attached to this cover page will consist of the Master Terms, dated March 1, 2001, 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 and Master Terms, and all Schedules that are attached to such Master Terms and are separately executed by the Parties. This Agreement will become effective October 1, 2011.

| CUSTOMER INFORMATION: | | | |
|------------------------------|--|---------------------------|----------------------|
| Name/Company: | The Board of Trustees of the University of Alabama | Principal Contact Person: | Shuttleworth, Rachel |
| Fax: | | Phone: | 205/348-0216 |
| Address: | Tuscaloosa, AL 35487 USA | | |
| Billing Contact: | | | |
| Address: | Accounts Payable Box 87137 Tuscaloosa, AL 35487 USA | | |
| Phone: | | E-mail Address: | |
| Fax: | | | |

IN WITNESS WHEREOF, the parties hereto have executed this cover page as of the date written below.

| | |
|--|--|
| BLACKBOARD | CUSTOMER: The Board of Trustees of the University of Alabama, a public corporation, on behalf of the University of Alabama |
| | |
| Signature TESS FRAZIER- VICE PRESIDENT | Signature Reba J. Essary |
| Print Name and Title Date: <i>12/13/11</i> | Print Name and Title Date: <i>12/13/11</i> |

University of Alabama Pricing Summary

| Product Description | Product ID | Initial Term Year 1 10/1/11-9/30/12 | Initial Term Year 2 10/1/12-9/30/13 | Initial Term Year 3 10/1/13-9/30/14 |
|---|---------------|---|---|---|
| LRN ACAD COLLAB HENA 25-50K Includes: • COURSE DELIV HENA 25-50K • CMTY ENGAGE HENA 25-50K • CONTENT MGMT HENA 25-50K | AS-LAC-HENA05 | \$ 229600 | \$ 229600 | \$ 229600 |
| Price Reduction | | <\$229600> | <\$139,023> | <\$110,309> |
| COURSE DELIV TEST | AS-LSFREETEST | \$ 0 | \$ 0 | \$ 0 |
| CMTY ENGAGE TEST | AS-CMFREETEST | \$ 0 | \$ 0 | \$ 0 |
| CONTENT MGMT TEST | AS-CSFREETEST | \$ 0 | \$ 0 | \$ 0 |
| COURSE DELIV - DEVELOPER | AS-LSDEVFREE | \$ 0 | \$ 0 | \$ 0 |
| TOTAL | | \$ 0 | \$ 90,577 | \$ 119,291 |

| Designated Server Site (Physical Location of the Software): | Database Version: | Operating System: | Hardware Model: |
|---|-------------------|-------------------|-----------------|
| HOSTED BY BLACKBOARD | | | |
| Customers FTE/User Band: 28000 | | | |



**SOFTWARE SCHEDULE
BLACKBOARD LEARN™ SOFTWARE SCHEDULE**

This Blackboard Learn™ Software Schedule ("Schedule") is made as of the last date indicated below, by and between Blackboard and University of Alabama ("Customer") and is an addendum to the Blackboard License And Services Agreement between Blackboard and Customer, including the Master Terms, the applicable Pricing Summary and other Schedules incorporated therein (collectively, the "Agreement"). 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 foregoing premises, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereby agree as follows:

1. ADDITIONAL DEFINITIONS

- 1.1 **"Blackboard Learn™ Software"** consists of the following packages, each of which is licensed separately:
- (a) "Blackboard Learn™ for Course Delivery" consisting of the course delivery module.
 - (b) "Blackboard Learn™ for Community Engagement" consisting of the course delivery and community engagement modules.
 - (c) "Blackboard Learn™ for Academic Content" consisting of the course delivery and content management modules.
 - (d) "Blackboard Learn™ for Academic Collaboration" consisting of the course delivery, community engagement, and content management modules.
 - (e) "Blackboard Learn™ for Outcomes Assessment" consisting of outcomes assessment.
- 1.2 **"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 API, and/or later incorporated into Updates or Upgrades.
- 1.3 **"Authorized End User"** means any individual who is a student resident in a degree- or certificate-granting program of Customer, prospective student, alumni, consortium 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.
- 1.4 **"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.
- 1.5 **"Designated Server Site"** means the physical location where the Software will be installed, as identified in the Pricing Summary.
- 1.6 **"Pricing Summary"** means the pricing attributable to the software and services provided pursuant to the Schedule as set forth on the cover page to the Agreement.
- 1.7 **"Software"** means, for purposes of this Schedule only, the Blackboard Learn proprietary software, as identified in the Pricing Summary, which contains one or more of the following packages: Blackboard Learn for Course Delivery, Blackboard Learn for Community Engagement, Blackboard Learn for Academic Content, Blackboard Learn for Academic Collaboration, and Blackboard Learn for Outcomes Assessment, including Updates, Upgrades, Corrections, and Application Packs thereto. Each package is licensed separately.
- 1.8 **"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.
- 1.9 **"Supported Interface"** means application-based interfaces (API) provided pursuant to the *Blackboard Building Blocks®* program, to the extent the program is available, network protocols, data formats, database schemas, and file formats available for use in the Software as expressly specified in the Documentation.
- 1.10 **"Third-Party Software"** means the software or content manufactured or created by third parties that has been incorporated by Blackboard into the Software.
- 1.11 **"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 solution, including Application Packs.
- 1.12 **"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 solution.

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 (i) to install and use one (1) production copy and one unsupported Test Copy of the Software for one installation at Customer's Designated Server Site, solely in the form of machine-readable, executable, object code or bytecode, as applicable, and solely in connection with providing access to Customer Content to Customer's Authorized End Users (unless otherwise expressly stated in the special provisions of the Pricing Summary) and to use the Documentation provided, however, that such Test Copy may be used to the extent required for and for the sole purposes of application clustering and/or load balancing, (a) on a group of 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 multiple managed node servers or (b) on multiple managed nodes that are configured and deployed on a single physical host that manages the self contained nodes. Customer acknowledges and understands that, in the event it wishes to use the Software for any purposes other than those expressly permitted by the foregoing, including, without limitation, 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 or, if applicable, any special provisions set forth on the Pricing Summary. 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 or Documentation, 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 reason. 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 to anyone other than Authorized End Users without Blackboard's prior written consent; provided, however, that Customer may provide access to *Blackboard Building Blocks*[®] partners that are subject to a valid Blackboard developer's license agreement for the limited purpose of installing, maintaining and supporting their *Blackboard Building Blocks*[®] applications. Customer shall ensure that its use of the Software complies with all applicable laws, statutes, regulations or rules promulgated by governing authorities having jurisdiction over the Parties or the Software. Customer will make reasonable efforts to ensure 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 Further Restrictions. Customer acknowledges that certain Blackboard Software contains an "Auto Report" feature, which feature 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.

2.4 Interoperability. To the extent permitted by the specifications as outlined in the Documentation for the Software at <http://behind.blackboard.com>, 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 2.4 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.

2.5 Third Party Software/Content. Customer acknowledges that the Software may utilize software and/or content made available to Blackboard by third parties, which shall constitute "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 Customer's own instructional activities.

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 or 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. Blackboard Software is priced annually based upon Blackboard User Bands. Blackboard User Bands are comprised of the FTE (as defined below) of licensing institution PLUS the number of Users in outside programs. Pricing is based on Customer's FTE. Customer agrees that the FTE provided to Blackboard is correct and accurate to the best of its knowledge. For the Software on this Schedule, Customer's license for the Software on this Schedule shall be expanded in increments as indicated below and Blackboard will assess additional license fees for increases in Customer's FTE. Blackboard's User Bands are as follows:

BLACKBOARD LEARNTM SOFTWARE:

Blackboard Band

| |
|------------------|
| 1-2000 |
| 2,001 to 4,000 |
| 4,001 to 8,000 |
| 8,001 to 15,000 |
| 15,001 to 25,000 |
| 25,001 to 50,000 |

ADDITIONAL bands of 25,000 will be priced separately

"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 Blackboards 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, and 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.

REB
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 October 1, 2011, and shall continue in effect for a period of three (3) years (the "Initial Term"). Thereafter, the Schedule may renew, with mutual agreement of the parties, 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 the applicable Documentation for a period of ninety (90) days after the initial 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 Client Support Services Guide located on Blackboard's website at <http://library.blackboard.com/docs/support/supportiveguide.pdf>, which Blackboard reserves the right to modify, from time to time, effective five (5) days after such modified document is posted at the relevant link, such posting to constitute effective notice of changes.

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

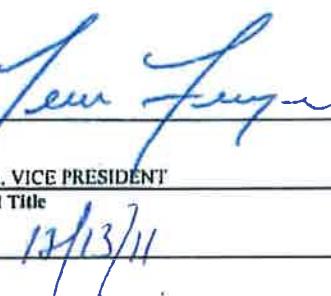
BLACKBOARD

Signature

TESS FRAZIER, VICE PRESIDENT

Print Name and Title

Date:



12/13/11

CUSTOMER: The Board of Trustees of
The University of Alabama,
a public corporation

Signature

Reba J. Essary

Associate Vice President
for Finance

Print

Date:



12/13/11

BLACKBOARD LEARN DEVELOPER'S NETWORK SCHEDULE

This Blackboard Developer's Network Schedule ("Schedule") is made as of the last date indicated below, by and between Blackboard and University of Alabama ("Developer") and is an addendum to the Blackboard License and Services Agreement between Blackboard and Developer, 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 foregoing promises, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereby agree as follows:

1. Program Description.

1.1 Blackboard Inc. ("Blackboard") desires to create a community of developers who design software that is interoperable with Blackboard's existing software. In order to do so, Blackboard makes available, subject to the terms of this Agreement, membership in a Blackboard Developers Network (the "Developers Network" or "BbDN"). Members of the BbDN have access to a Software Development Kit (the "SDK"), a package containing APIs and documentation that allow you to write code that interfaces with certain Blackboard software, reference materials and other documentation, support provided via a community discussion forum and a copy of Blackboard Academic Suite™. If you wish to join the Developer's Network and get access to the SDK and other benefits of membership, you must agree to the terms of this Agreement. This program relates to the Blackboard Learn applications only.

2. Definitions.

2.1 "Blackboard" means:

(a) for a Developer downloading the Blackboard Software to an address in the United States or Canada, Blackboard Inc., a Delaware corporation with its principal place of business at 650 Massachusetts Avenue, NW, 1st floor, Washington, DC 20001; or (b) for a Developer downloading the Blackboard Software to an address outside the United States or Canada, Blackboard International B.V., a Netherlands company.

2.2 "Blackboard Software" means the Blackboard software, limited to a maximum of 150 users, 100 courses, and 1,000 enrollment records, provided pursuant to this Agreement, and Supported Interfaces (and any Documentation and help files included within such software), as well as any additional materials that Blackboard may, in its sole discretion, provide, such as corrections, updates and Upgrades. Blackboard shall have no obligation to provide such additional materials, and any such additional materials that it does provide shall be deemed to be part of the Blackboard Software under this Agreement.

2.3 "Customers" means those persons, organizations or entities that have licensed from Blackboard one or more components of the Blackboard Software.

2.4 "Derivative Work(s)" shall have the meaning currently ascribed to it under the Copyright Act at 17 U.S.C. § 101 – a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which the preexisting work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

2.5 "Developer Software" means: (i) software application programs created by the Developer that are designed to operate in combination with the Blackboard Learn™ software that is provided pursuant to this Agreement; and (ii) all documentation for these software application programs; provided that: (a) the software application programs and documentation are authored or created by Developer or on Developer's behalf and that such software programs do not contain intellectual property from the Blackboard Software, and (b) the software application programs do not incorporate any part of the Blackboard Software, other than the connectors into the APIs of the Blackboard Software; or (c) such software applications programs and documentation do not otherwise constitute a Derivative Work of the Blackboard Software.

2.6 "Developer's Network Information" means the sample software code developed by Blackboard pursuant to the Developer's Network, related Documentation and other proprietary information made available to Developer as a result of this Agreement.

2.8 "Purpose" means the purpose of this Schedule, which is to create a community of developers who design software that is interoperable with Blackboard's existing software.

2.7 "Specifications" means the technical specifications for the Blackboard Software as set forth in the applicable documentation.

2.8 "Supported Interfaces" means application programming interfaces ("API"), network protocols, data formats, database schemas, and file formats used in the Blackboard Software as described in the Documentation.

2.9 "Upgrades" mean the object code versions of the Blackboard 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 has 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).

3. Obligations

3.1 General. Developer shall use the Blackboard Software to develop the Developer Software in a manner and for purposes that are consistent with the Purpose of this Schedule.

3.2 Blackboard Obligations.

3.2.1 Blackboard shall provide Developer with: (a) access to the Developer's Network Information; and (b) one (1) copy of the Blackboard Software, pursuant to the licenses in Section 4 below, together with Documentation to assist in developing the Developer Software. 3.2.2 For thirty (30) days after the Effective Date, Blackboard shall provide web-based technical support, for installation purposes only, to two (2) technical contacts at Developer's location who are the only individuals who may contact Blackboard regarding installation support services. Developer may change its technical contacts as long as Blackboard is informed in writing and the list does not exceed two (2) contact personnel. Such support will be available Monday through Friday from 8:00 AM to 8:00 PM EST, except federal holidays. Except with regard to the foregoing, Blackboard will have no obligation to provide: (a) any support regarding the Blackboard Software, (b) any development tools for, or updates to, the Blackboard Software, and (c) any maintenance or training for the Blackboard Software.

3.3 Developer Obligations.

3.3.1 Developer agrees and represents that it shall develop the Developer Software in accordance with the Purpose of this Schedule and to enable simple installation and integration of the Developer Software into the Blackboard Software, as installed by a Customer.

3.3.2 Developer shall provide its standard customer support to Customers using and installing the Developer Software. Developer shall be solely responsible for providing all end-user support for any Developer Software.

3.3.3 Prior to permitting a third party to resell or distribute the Developer Software, Developer shall provide Blackboard a right of first refusal to resell or distribute the Developer Software based upon mutually agreeable terms which shall be no worse than the most favorable terms granted to such third party.

3.3.4 Developer shall not disable the Auto Reporting Option of the Blackboard Software.

Peter [Signature]

3.2.5 The Developer may provide consulting services to third parties relating to the Developer Software, but the Developer shall not use the Blackboard Software licensed to the Developer under this Schedule to provide consulting services that are related to the Blackboard Software and not the Developer Software.

4 License

4.1 Developers' Network Information Grant. Solely in connection with the Purpose of this Schedule, Blackboard hereby grants to Developer, and Developer hereby accepts from Blackboard, a limited, nonexclusive, nontransferable right and license to download, review and use up to twenty five (25) copies of the Developer's Network Information on the Internet or Intranet server or servers at Developer's site. Developer may use the Developer's Network Information solely in connection with its own internal development purposes in connection with the Purpose of this Schedule. Developer may copy the Developer's Network Information, or any portion thereof, in whole or in part only for the Purpose of this Schedule.

4.2 Blackboard Software License Grant. Solely in connection with the Purpose of this Schedule and the development of the Developer Software, Blackboard hereby grants to Developer, and Developer hereby accepts from Blackboard, a nontransferable, nonexclusive right and license to use the copy of the Blackboard Software provided to Developer by Blackboard, but only at the address at which Developer provides pursuant to this Schedule (or other locations, provided that Developer notifies Blackboard in writing and Blackboard does not object within ten (10) days of receiving such notice), and solely for the purposes of: (1) creating the Developer Software at the Designated Server Site; and (2) supporting the Developer Software at the Designated Server Site. No right is granted to distribute all or any portion of the Blackboard Software or the Documentation. In the event that Developer desires to receive a license to use the Blackboard Software other than in connection with development or support of the Developer Software, or on operating system other than the one at the Designated Server Site, such license shall be pursuant to a separate license agreement. Developer may only make one (1) backup copy of the Blackboard Software for its own internal purposes, but otherwise may not copy, duplicate or reproduce the Blackboard Software in any manner.

4.3 Third Party Software/Content. Developer acknowledges that the Blackboard Software may utilize software and/or content made available to Blackboard by certain third parties (the "Third Party Software"). Pursuant to its agreements with such third parties, Blackboard hereby grants to Developer a non-exclusive, nontransferable and sublicensable right and license to load and/or operate and use the Third Party Software solely to the extent of the license in Section 4.2.

4.4 Termination of Access to Third Party Software. Blackboard's licensors and suppliers reserve the right, at their discretion, to restrict, suspend or terminate Developer's access to all or any part of the Third Party Software at any time for any reason without prior notice or liability. Blackboard's licensors and suppliers may change, suspend or discontinue all or any aspect of the Third Party Software, including the availability, without prior notice or liability.

4.5 No Other Rights Granted. Apart from the licenses expressly granted in Sections 4.1 and 4.2, no license or other right is granted by Blackboard to Developer under this Schedule. Developer shall have no right or access to the source code of the Blackboard Software. Developer shall appoint no resellers, other developers, or sub-distributors or APIs of the Blackboard Software, and shall not permit any third party to access the Blackboard Software, including, without limitation, any subcontractors for the purpose of subcontracting the development of the Developer Software.

4.6 Nondisclosure and Nonuse. Developer shall (a) disclose Developer's Network Information during the term of this Agreement to only 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 Developer's Network Information; and (b) use such Developer's Network Information during the term of this Agreement only for the Purpose set forth in this Agreement. Developer shall treat the Developer's Network Information as strictly confidential, and shall use the same care to prevent disclosure of such information as it uses with respect to its own confidential and proprietary information, which shall not be less than the care a reasonable person would use under similar circumstances.

4.7 Restrictions. Except as may be expressly permitted during the Term of this Agreement in Section 4.2, Developer shall not: (a) modify, decompile, disassemble, decrypt, extract, or otherwise reverse engineer the Blackboard Software or any part thereof, or grant any other person or entity the right to do so or take any action that would assist any other person or entity in doing so (and Developer will promptly notify Blackboard of any information that any other person or entity is or is attempting to copy, reverse engineer, disassemble, decompile, translate or modify the Blackboard Software); (b) modify, delete, replace, change, prepare derivative works of or otherwise alter any files in the Blackboard Software; (c) loan, rent, lease, give, sublicense, distribute, transfer, publish, disclose, display, or otherwise make available the Blackboard Software, in whole or in part, to any other person or entity except as expressly permitted herein; (d) use the Blackboard Software in connection with the development of any products other than the Developer Software or (e) transmit the Blackboard Software over a network or from one computer to another (other than on a limited basis within Developer's local area network), or upload the Blackboard Software to electronic bulletin boards, web sites, or otherwise distribute them (or any portion), whether electronically, or on tangible media.

5 Marketing

5.1 License for Marks. Contingent upon the requirements set forth in this Section 5, Blackboard grants to the Developer, for the term of this Schedule, a limited, nonexclusive, royalty-free license to use the "Blackboard™", the "Bb" logo, and "Blackboard Building Blocks™", "Blackboard Developer's Network™", "Blackboard Developer's Network Catalog", "BbDN", "Blackboard PowerLinks™", "Blackboard PowerLinks DevNet" trademarks and trade names, each only in order to show that Developer is a member of the Developer's Network and that the Developer Software is compatible with the Blackboard Software (the "Blackboard Licensed Marks"). Developer grants to Blackboard a limited, nonexclusive, royalty-free license to use the following Marks: (1) the Developer's corporate name and/or trade name, (2) the Developer's corporate logo, and (3) the product name of the Developer Software developed under this Schedule, each only in order to identify Developer Software that is compatible with the Blackboard Software (the "Developer-Licensed Marks"). Collectively, the Blackboard Licensed Marks and the Developer-Licensed Marks shall be referred to as the "Licensed Marks". Each of these two This licenses is contingent on the requirements that each Party: (a) does not create a unitary composite mark involving a Mark of the other Party Blackboard's without the prior written approval of such other Party Blackboard; (b) displays symbols and notices clearly and sufficiently, indicating the trademark status and ownership of the other Party Blackboard's Marks in accordance with applicable trademark law and practice; and (c) uses the other Party Blackboard's Marks in a manner that is consistent with the Purpose of this Schedule. In no event shall Developer use the word "Blackboard" in the name of any of its products or services, including, without limitation, the use of "[product] for Blackboard". Each Party acknowledges that its utilization of the Licensed Marks under this Schedule will not create in, nor will it represent that it has any right, title or interest in or to such Licensed Marks other than the licenses expressly granted herein. Blackboard may, but is not obligated to, list the Developer-Licensed Marks on web sites and product marketing materials associated with the Developer's Network and the Blackboard Building Blocks and Blackboard PowerLinks Programs.

Neither Party will do anything to contest or impair the trademark rights of the other Party and will comply with such Party's standard trademark usage guidelines as such Party may provide from time to time.

5.2 **Press Releases**. Subject to Section 7.3, any news release, public announcement, marketing materials, advertisement or publicity proposed to be released by either Party concerning the activities of either Party in connection with this Schedule, including the Developer Software, will be subject to the written approval of the other Party prior to release. Any such publicity shall be consistent with the Purpose of this Schedule and will give due credit to the contribution of each Party.

5.3 **Marketing Costs**. Any costs of promotion and marketing shall be borne solely by the respective Party, and nothing in this Schedule shall be interpreted to require promotion of products or services through marketing media forms which either Party normally charges a fee to provide.

5.4 **Marketing Materials**. Each Party will submit to the other Party for its prior written approval, which shall not be unreasonably withheld, any marketing materials to be used in connection with performing its obligations or rights under, or related to, this Schedule, including but not limited to business card, website or jewel case design, that incorporates any of the other Party's Marks. Each Party will undertake to respond to any such request for approval within ten (10) business days in a reasonable period of time. Each Party reserves the right to disapprove such marketing materials if it reasonably determines that its Marks are improperly used or if the marketing materials do not accurately represent the business relationship between the Parties or the services or products of the other Party.

5.5 **Quality Standards**. Each Party agrees that the nature and quality of its products and services supplied in connection with the other Party's Marks shall conform to quality standards communicated in writing by the other Party for use of its Marks. Each Party agrees to supply the other Party, upon request, with a reasonable number of samples of any marketing or other materials publicly disseminated by such Party which utilize the other Party's Marks. Each Party shall comply with all applicable laws, regulations and customs and obtain any required government approvals pertaining to use of the other Party's Marks.

5.6 **Infringement Proceedings**. Each Party agrees to promptly notify the other Party of any unauthorized use of the other Party's Marks of which it has actual knowledge. Each Party shall have the sole right and discretion to bring proceedings alleging infringement of its Marks or unfair competition related thereto; provided, however, that each Party agrees to provide the other Party, at such other Party's expense, with its reasonable cooperation and assistance with respect to any such infringement proceedings.

6 Ownership and Intellectual Property Rights

6.1 **Ownership of Blackboard Intellectual Property**. Except as specifically set forth in this Schedule, no title to or ownership of any portion of the Developer's Network Information or Blackboard Software as well as any other products or services manufactured, sold and/or distributed or otherwise made available by Blackboard, or to any proprietary rights related to those products/services, is transferred pursuant to or by virtue of this Schedule and all rights and interest to the foregoing shall remain the sole and exclusive property and proprietary information of Blackboard.

6.2 **Ownership Rights in the Developer Software**. Developer retains all rights in the Developer Software that it creates pursuant to this Schedule, provided that the Developer Software does not contain or constitute Blackboard intellectual property.

6.3 **Ownership Rights in Derivative Works**. All Derivative Works of the Blackboard Software shall be owned exclusively by Blackboard. All Derivative Works shall be deemed to be "works made for hire." To the extent that title to the Derivative Works does not, by operation of law, vest in Blackboard or the Derivative Works are not considered "works made for hire," Developer hereby irrevocably assigns all right, title and interest therein to Blackboard. Blackboard, however, shall grant and hereby grants to Developer a nonexclusive, royalty-free, world-wide, license to use any such Derivative Works for the Purpose set forth in this Schedule during the Initial Term and any subsequent Renewal Terms. In the event that Blackboard permits Developer in writing to use non-employees to perform the obligations of Developer under this Schedule, Developer shall take all necessary action to secure on behalf of Blackboard all rights to the Derivative Works from such non-employees.

7 Term

7.1 **Initial Term**. The initial term of this Schedule will be three (3) years commencing on October 1, 2011 (the "Initial Term"). With mutual agreement of the parties, the Schedule may be renewed on a year-to-year basis for successive terms of one (1) year (each, a "Renewal Term"). Thereafter, either Party may terminate this Schedule by providing written notice to the other Party no later than thirty (30) days prior to the end of such one (1) year term.

7.2 **Termination**. Either Party may, at its option, terminate this Schedule if a material default by the other Party is not cured or waived within thirty (30) days after receipt of a written notice of the default. Notwithstanding the foregoing, Blackboard may terminate this Schedule immediately by written notice in the event of a breach of Sections 3, 4, 6, 7 and 9 herein. Either Party may terminate this Schedule immediately following written notice to the other Party if the other Party: (a) ceases to do business in the normal course, (b) becomes or is declared insolvent or bankrupt, (c) is the subject of any proceeding related to its liquidation or insolvency (whether voluntary or involuntary), other than a reorganization under Chapter 11 of the Bankruptcy Code, which is not dismissed within ninety (90) calendar days, or (d) makes an assignment for the benefit of creditors.

7.3 **Rights and Obligations upon Termination**. Termination of this Schedule shall not relieve either Party of any obligation or liability accrued hereunder prior to or in connection with such termination, except as expressly provided herein. Upon termination of this Schedule, and to the extent that Developer has received any physical copies of the Blackboard Software, Developer shall deliver to Blackboard all copies of the Blackboard Software for which licenses do not remain in force. Each Party shall also return any Confidential Information as well as any copies of marketing materials of the other Party it has in its possession. In addition, the Parties shall use commercially reasonable efforts to conclude existing projects in a manner that serves the best interests of Blackboard's Customers, at Blackboard's reasonable determination.

8 Fees and Payments

8.1 **Fees**. Developer shall pay Blackboard the annual license fee (if applicable) on the Effective Date for the first year for use of the Blackboard Software and participation in the Program and pay the then applicable amount charged by Blackboard, in its sole discretion, on the anniversary of the Effective Date for each subsequent year that the Developer uses the Blackboard Software to develop Developer Software or offers and/or supports the Developer Software for use by Customers.

8.2 **Payment**. Blackboard or its subcontractor shall submit an invoice to Developer and Developer's payments shall be due and payable to the invoicing Party within thirty (30) days after receipt of the invoice. Customer will pay all fees in U.S. dollars, unless otherwise specified on the applicable Blackboard-issued invoice.

9 Warranty

9.1 **Blackboard Warranties**. Blackboard represents and warrants that: (a) it has authorized the person who has signed this Schedule for Blackboard to execute and deliver this Schedule to Developer on behalf of Blackboard; (b) it and/or its suppliers and licensors possess all rights necessary to grant the rights herein; and (c) it will comply with all applicable local, national and international laws, regulations or other provisions in all material respects in performing its obligations under this Schedule.

9.2 **Developer Warranties**. Developer represents and warrants: (a) that it has authorized the person who has signed this Schedule for Developer to execute and deliver this Schedule to Blackboard on behalf of Developer; (b) the Developer Software shall be developed in a good

Customer: University of Alabama

and workmanlike manner and in compliance with the requirements and Purpose of this Schedule, and (c) that it will comply with all applicable local, national and international laws, regulations or other provisions in all material respects in performing its obligations under this Schedule.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date hereof.

BLACKBOARD

DEVELOPER: The Board of Trustees of the University of Alabama, a public corporation, on behalf of the University of Alabama

Signature

TESS FRAZIER-VICE PRESIDENT

Print Name and Title

Signature

Print Name and Title

Date:

Date:

*Rehse
TP*

STATE OF ALABAMA)
TUSCALOOSA COUNTY)

UNIVERSITY ADDENDUM

This Addendum is made a part of the Blackboard License and Services Agreement (hereinafter referred to as the "Agreement") by and between The Board of Trustees of The University of Alabama, a public corporation and constitutional instrumentality of the State of Alabama, by and through The University of Alabama, Tuscaloosa, Alabama ("University") and Blackboard Inc., ("Vendor").

WITNESSETH

1. This Addendum is a material part of the Agreement between the parties and neither the Agreement nor any portion thereof shall be deemed binding upon either party unless and until the Addendum is executed as herein provided.

2. Any designation of the names of the parties in the body of the referenced Agreement notwithstanding, the parties to the Agreement acknowledge and agree that the proper designation of the University is The Board of Trustees of the University of Alabama, a public corporation and constitutional instrumentality of the State of Alabama, by and through The University of Alabama.

3. The parties agree that the Agreement and this Addendum constitute the entire agreement between the parties and no party is responsible for terms or conditions not contained in the Agreement or Addendum. Any changes, additions or deletions to the Agreement or Addendum must be made in writing and signed by the parties hereto.

4. In the event of any conflict between any provision of this Addendum and any provision of the Agreement to which it is attached (whether strike-throughs are made on the Agreement or not), the provisions of this Addendum will control and shall be contracting and binding on the parties.

5. Nothing in the Agreement or this Addendum shall be deemed to constitute either party, or any employee, agent, or representative of either party, an employee, agent or representative of the other party.

6. No failure by the University to insist upon strict performance or compliance with any terms, provisions, covenants, conditions, or obligations of the shall be construed as a waiver or relinquishment for the future performance of such term, provision, covenant, condition, or obligation or option, but the same shall continue and remain in full force and effect.

7. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8. Notwithstanding any contrary provisions of the Agreement, the following provisions shall govern any disputes or questions of law. To the extent allowed by Alabama law the University agrees to indemnify or hold Vendor harmless from any claim that may arise pursuant to this Agreement. The University does not waive and specifically reserves all immunities to which it is entitled by the constitution, laws, and statutes of the United States and the State of Alabama, including, without limitation, the immunities contained within Article 1, section 14, of the Constitution of Alabama of 1901, the Eleventh Amendment of the United States Constitution, or any other applicable provision of law. Any claim against the University must be made through the Alabama State Board of Adjustment. Alabama law, without regard to its conflicts of law provisions, shall exclusively apply to the Agreement,

Addendum, questions of immunity related to the University, and any disputes between the parties. Any provisions of the Agreement which may be considered consent to suit or a waiver of immunity by the University is hereby stricken and rendered null and void.

9. Any provisions of the Agreement, present or future, to the contrary notwithstanding, the University does not agree to binding arbitration.

10. Vendor shall and does release, discharge, indemnify and hold harmless the Board of Trustees of the University, its trustees, directors, officers, employees, agents, representatives, and affiliated foundations, from any and all claims which arise out of, in connection with, or are related to software and services rendered pursuant to this Agreement.

11. This Agreement may be cancelled by University at any time with 30 days written notice should funds not be available to continue this contract.

12. The section of the Agreement titled "Blackboard Learn Developer's Network Schedule" on pages 6-9 of the Agreement is hereby deleted in its entirety.

13. The University of Alabama is a public institution as described in Alabama Department of Revenue Sales and Use Tax Rules, 810-6-3-.47.04, code of Alabama 1975, Sections 40-23-31 and 40-23-83 and is specifically exempted under the law from state sales and use taxes on all tangible personal property purchased for its sole use and benefit and under its control.

14. The Code of Alabama 1975 41-4-116 provides that every Contract executed shall contain a certification that the vendor, contractor, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting and remitting Alabama state and local sales, use and/or lease tax on all taxable sales and leases into Alabama. By accepting a purchase order or Contract, the Vendor is hereby certifying full compliance with Act No. 2006-557; are not barred from bidding or entering into a contract pursuant to 41-4-116; and acknowledge that The University of Alabama may declare the purchase order/Contract void if certification is false.

15. All provisions as to confidentiality shall be construed consistently with, and subject to, any applicable open records acts or freedom of information statutes, but only to the extent that the same require disclosure

16. Any confidentiality obligations imposed on the University with regard to Vendor materials, methods, techniques, services or software shall not apply to the extent that the same:

- a. are or become publicly available other than as a result of acts by the University in violation of the agreement;
- b. are in the possession of or known to the University prior to disclosure by Vendor;
- c. are or become available to the University from a source that, to the University's knowledge, is not bound by an agreement with Vendor prohibiting disclosure; or
- d. are in or become part of the public domain.

17. Vendor shall not issue any press releases nor post information regarding the Agreement or the relationship of the parties, without prior written approval from the University's Office of University Relations and Office of Counsel.

18. Vendor acknowledges and agrees that The University of Alabama owns all rights, title, and interests in and to its University Indicia and that each of the University Indicia is valid. Contractor agrees that "University Indicia" shall include, without limitation, the University's trademarks, service marks, designs, team names, nicknames, abbreviations, trade dress, uniforms, helmet designs, city/state

names in the appropriate context, slogans, logo-graphics, mascots, seals, colors, and other symbols associated with or referring to the University that are adopted and used or approved for use by the University. Contractor shall not have any right to use any of the University Indicia or any similar mark as, or as part of, a trademark, service mark, trade name, fictitious name, domain name, company or corporate name, a commercial or business activity, or advertising or endorsements anywhere in the world without the prior express written consent of the University.

19. By accepting payments agreed to in this Agreement, Vendor certifies that to its actual knowledge no University employee or official, and no family members of a University employee or official, will receive a benefit from these payments, except as has been previously disclosed, in writing, to the University on the attached Disclosure Statement of Relationship Between Contractors/University and Employees/Officials of The University of Alabama.

20. A copy of any legal notice sent by Vendor, or received by Vendor from third party, will be sent to UA Office of Counsel, 222 Rose Administration Building, Tuscaloosa, AL 35487.

21. Vendor warrants and represents that it will obtain all licenses, registrations, and permissions necessary to perform the services in the State of Alabama.

22. Any expense or vendor travel related reimbursements The University shall be responsible for related to the services to be performed under the Agreement shall be in compliance with the University's Vendor Travel Guidelines (Exhibit A attached).

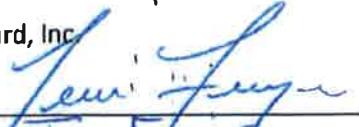
23. The persons designated by the University as the "End User Contact" for purposes of any of the Agreements does not have authority to bind the University to contracts.

24. The representative of University in executing this Agreement and Addendum represents that she signs as a properly authorized representative of University and does not assume any personal liability for compliance with the terms and conditions of this Agreement. Vendor's representative represents and warrants that he is the duly appointed agent and representative of Vendor with full authority to execute the Agreement and this Addendum, without any further requirements or approvals.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their authorized representatives on the dates set out below.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA

By: 
Reba J. Essary
Associate Vice President for Finance
Date: December 13, 2011

Blackboard, Inc.

By: 
Its: Vice President
Date: 12/13/2011

PLEASE COMPLETE, SIGN, AND RETURN TO THE UNIVERSITY

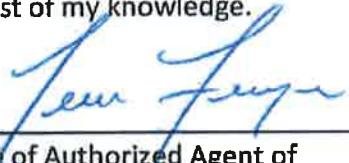
**DISCLOSURE STATEMENT OF
RELATIONSHIP BETWEEN CONTRACTORS/GRAtees AND
EMPLOYEES/OFFICIALS OF THE UNIVERSITY OF ALABAMA
(THE "UNIVERSITY")**

1. Contract No.: N/A
2. Name of Contractor/Grantee: **BLACKBOARD, Inc.**
3. Nature of contract/grant: Software License
4. Does the contractor/grantee have any relationship with any employee or official of the University, or a family member of such employee or official, that will enable such employee or official, or his/her family member, to benefit from this contract/grant? If so, please state the names, relationships, and nature of the benefit.
N/A

(For employees of the University, family members include spouse and dependents. For members of the Board of Trustees (officials), family members include spouse, dependents, adult children or their spouses, parents, in-laws, siblings, and their spouses.)

This Disclosure Form will be available for public inspection upon request.

The above information is true and accurate, to the best of my knowledge.



Signature of Authorized Agent of
Contractor/Grantee

Date 12/13/2011

EXHIBIT A:

VENDOR TRAVEL GUIDELINES

Invoicing for Travel Expenses: The total request for reimbursement must be invoiced after completion of the trip. Receipts and other documentation of the total costs of the trip (including any prepaid expenses) must be submitted along with the invoice. Any expenses covered by a third party should be noted.

Documentation of Costs: Vendors are required by the University to present original receipts for all travel expenses that require documentation: that is, lodging, airfare, rail fare, car rental and gasoline, and any unusual expenses. In addition, the University requires that all invoiced travel expenses of \$75 or more be documented. Reimbursement for meals in excess of \$25 per person requires a restaurant receipt that itemizes the food and beverages. Credit card slips are not acceptable documentation for meals in excess of \$25 per person.

Telephone Calls: Personal calls made from a hotel and itemized on the hotel receipt should not be included on the invoice. Business-related calls should be noted on the travel voucher.

Prohibited Expenses: The University's funds may not, by federal law, be used to make reimbursements for business entertainment expenses incurred during official travel. The University does not reimburse Vendors for:

- purchases of alcoholic beverages
- travel expenses incurred by spouses or other family members
- travel insurance
- airline excess baggage charges
- medical expenses incurred during travel
- safe charges
- internet charges
- personal sundries and supplies
- entertainment of University personnel
- Rental car "convenience" charges

Travel Route: Vendors should use the most economical route available. Mileage is calculated from the Vendors official business address. If official travel begins at home and home is closer to the destination, mileage is calculated from home. The distance to the Birmingham airport from the Tuscaloosa campus of the University is assumed to be 60 miles each way.

Taxis: During official University travel, taxis may be hired when no other, more economical public transportation is readily available. A written explanation is required for each taxi trip except the trip from and to the airport or rail station at the destination. Submit explanations for all other taxi trips with the travel voucher. The University typically does not reimburse Vendors for taxi fare to and from meals.

Air Travel: When traveling by commercial airline on official University business, Vendors should plan well in advance and obtain the most economical fare available. Only coach/economy fares are reimbursable; the maximum amount you may invoice the University for is the coach, discount coach, or economy fare to the Birmingham, AL airport. The original passenger copy of the ticket must be submitted with the invoice. The costs of ticket life insurance, airline cancelations fees or charges, and ticket cancellation insurance are not reimbursable.

Rail Travel: Original receipts for rail fares, as well as the passenger copy of the ticket, must be submitted with the invoice. The University will not reimburse Vendors for rail fares that exceed the cost of the 14-day coach/economy airfare to the destination.

Local (Auto) Transportation: Vendors may be reimbursed at the federal mileage rate. State the date, destination, and reason for the trip, along with the recorded mileage, on the invoice. Any automobiles brought on campus must be properly registered with the Department of Transportation and display a valid parking permit at all times. The cost of parking permits is not reimbursable. Parking on campus for private automobiles is not available and travel on campus should be via the University's campus transportation services. However, if extenuating circumstances exist, documentation of these circumstances must be submitted with the Invoice.

Lodging: Accommodations should be prudently planned, so that the best interests of the University are served at the most reasonable cost. Anyone traveling on University business is expected to exercise the same economy that a practical person would exercise when traveling on personal business. When a Vendor invoices the University for lodging expenses, itemized folio receipts must accompany the invoice. Credit card receipts are unacceptable. The dates of occupancy, the number of nights invoiced, the names of all occupants of the room, and the total amount charged for lodging must be recorded on the invoice.

Meals: Vendors performing services for the University in Tuscaloosa are reimbursed for the actual cost of their meals, up to \$45.00 a day per person.

Gratuities: Tips to food servers, taxi drivers, and room cleaning staff are reimbursable when they are at acceptable levels and deemed by the University to be reasonable and necessary. Gratuities claimed as travel expenses should be consistent with the amounts generally accepted in the geographical location for the type of services provided and under any special circumstances.

Baggage Handling: Baggage handling expenses will be reimbursed if they are incurred when traveling to or from the place of lodging or when traveling to or from the airport or train station."



Blackboard

This Blackboard Order Form ("Order Form") by and between Blackboard (as defined below) and University of Alabama- Tuscaloosa ("Customer") details the terms of Customer's use of the products and services set forth below ("Product and Pricing Summary"). This Order Form, together with the Blackboard Master Agreement dated March 1, 2002 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

MOBILE

| <u>Product Name/Code</u> | <u>Product or Service Description</u> | <u>Term 1</u> 3/11/15 – 9/30/15 | <u>Term 2</u> 10/1/15 – 9/30/16 | <u>Term 3</u> 10/1/16 – 9/30/17 |
|--------------------------|---|------------------------------------|------------------------------------|------------------------------------|
| MOBILE CENTRAL | Blackboard Mobile Central 15,001 - 25,000 FTE | \$17,822.00 | \$32,845.00 | \$33,830.35 |
| MOBILE LEARN | Blackboard Mobile Learn 15,001 - 25,000 FTE | \$17,962.00 | \$33,101.00 | \$34,094.03 |
| TOTALS: | | \$35,784.00 | \$65,946.00 | \$67,924.38 |

COLLABORATE

| <u>Product Name/Code</u> | <u>Product or Service Description</u> | <u>12/31/16 – 9/30/17</u> |
|---|---|---------------------------|
| Wimba Voice License 25001-50000 | Wimba Voice License 25001-50000 | – |
| Bb Collaborate Enterprise IM 25001-50000 (FTE) | Bb Collaborate Enterprise IM - FTE 25001-50000 | \$23,055.00 |
| Wimba Voice Hosting 25001-50000 | Wimba Voice Hosting 25001-50000 | \$10,674.00 |
| Bb Collaborate Additional 500GB of Standard Storage 25001-50000 | 500GB of storage for standard recordings and pre-load storage per year, 25001-50000 | – |
| Bb Collaborate Web Conferencing 25001-50000 (FTE) | Blackboard currently offers with the sale and renewal of this product, 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, 25001-50000 | \$46,112.00 |
| TOTALS: | | \$91,551.00 |

LEARN/MANAGED HOSTING

| <u>Product Name/Code</u> | <u>Product or Service Description</u> | <u>Term 1</u> 10/1/14 – 9/30/15 | <u>Term 2</u> 10/1/15 – 9/30/16 | <u>Term 3</u> 10/1/16 – 9/30/17 |
|--------------------------------|--|------------------------------------|------------------------------------|------------------------------------|
| ADDL HOSTING SERVICE UNIT | Blackboard Managed Hosting Additional Service Unit add 7,500 active users, 100 GB, 1 Mpbs | \$81,135.32 | \$81,946.67 | \$82,766.14 |
| HOSTING ADDL STORAGE 1TB | Blackboard Managed Hosting Storage 1TB open market | – | – | – |
| ADDL HOSTING SERVICE UNIT | Blackboard Managed Hosting Additional Service Unit add 7,500 active users, 100 GB, 1 Mpbs | – | – | – |
| HOSTING OPEN DB REPORTING ENV | Blackboard Managed Hosting Open Database Reporting Environment | \$9,600.00 | \$9,696.00 | \$9,792.96 |
| HOSTING OPEN DB REP ENV SETUP | Blackboard Managed Hosting Open Database Reporting Environment Setup | – | – | – |
| BUSN CONTINUITY -HOSTED | Blackboard Managed Hosting Business Continuity Service - Hosted Client 12HR RPO 24HR RTO | \$79,790.00 | \$80,587.90 | \$81,393.78 |
| CONTENT MANAGEMENT HOSTING | Blackboard Managed Hosting for Content Management open market | – | – | – |
| DIAMOND ENGAGE PLAN HOSTING NA | Blackboard Managed Hosting Diamond Engagement Plan, North America | \$181,295.00 | \$183,107.95 | \$184,939.03 |
| HST NONPROD OPENDB ENVIR | Blackboard Managed Hosting Non-Production Open Database Environment | – | – | – |
| ADDL HOSTING SERVICE UNIT | Blackboard Managed Hosting Additional Service Unit add 10,000 active users, 100 GB, 1 Mpbs | \$40,577.76 | \$40,983.53 | \$41,393.37 |
| LEARN FOR ACADEMIC COLLAB | Blackboard Learn for Academic Collaboration | \$122,869.73 | \$126,555.82 | \$130,352.50 |
| COURSE DELIVERY | Blackboard Course Delivery 25,001 - 50,000 FTE | – | – | – |
| COMMUNITY ENGAGEMENT | Blackboard Community Engagement 25,001 - 50,000 FTE | – | – | – |
| CONTENT MANAGEMENT | Blackboard Content Management 25,001 - 50,000 FTE | – | – | – |
| TOTALS: | | \$515,267.81 | \$522,877.87 | \$530,637.78 |

CONNECT

| <u>Product Name/Code</u> | <u>Product or Service Description</u> | <u>Units</u> | <u>Term 1</u> 12/15/14 – 9/30/15 | <u>Term 2</u> 10/1/15 – 9/30/16 | <u>Term 3</u> 10/1/16 – 9/30/17 |
|------------------------------------|--|--------------|-------------------------------------|------------------------------------|------------------------------------|
| Blackboard Connect HED Service | Blackboard Connect Text for Learn Service (formerly known as Blackboard Connect Integration Tool Kit for Blackboard Learn) (50,000 Messages per Pack) | 2 | \$7,945.00 | \$10,000.00 | \$10,000.00 |
| Blackboard Connect Support Service | 24x7x365 Support Unlimited Online Training | 1 | \$1,986.00 | \$2,500.00 | \$2,500.00 |
| TOTALS: | | | \$9,931.00 | \$12,500.00 | \$12,500.00 |

DESIGNATED SERVER SITE: Hosted by Blackboard

B. Term

1. Initial Term: As specified in the Product and Pricing Summary above.
2. 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 Initial 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 Initial Term or Renewal Term, as applicable.
3. Effective Date: October 1, 2014

C. Payment Terms

1. All initial and subsequent payments shall be due Net 30. Unless otherwise specified, all dollars (\$) are United States currency.
2. Customer shall be invoiced for amounts due in respect of the first year of the Initial Term upon execution of this Order Form.
3. 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

1. The terms and conditions of the following shall be incorporated herein:
 - a. The Blackboard Mobile Schedule dated March 11, 2010, as amended
 - b. The Blackboard Collaborate Schedule dated November 7, 2013
 - c. The Blackboard Learn Software Schedule dated December 13, 2011
 - d. The Blackboard Managed Hosting Schedule dated September 29, 2011
 - e. The Blackboard Managed Hosting Business Continuity Schedule dated September 29, 2011
 - f. The Blackboard Connect Integration Tool Kit for Blackboard Learn Schedule dated December 15, 2011 shall be incorporated herein for the Blackboard Connect Text for Learn Service (formerly known as the Blackboard Connect Integration Tool Kit for Blackboard Learn).
2. **Blackboard ConnectTxt Building Block for Learn.** Customer will receive the Blackboard ConnectTxt Building Block for Learn at no additional charge. Customer may use the Blackboard ConnectTxt Building Block for Learn to send and receive text messages to Authorized Recipients. Messages must be purchased in message packs (each a "Message Pack") in increments as indicated on the Order Form. Unused messages from the Term in which a Message Pack was purchased will not rollover into the following year. The Customer will not receive a refund for unused messages upon termination of the Agreement.

Customer: University of Alabama- Tuscaloosa

Signature

Reba J. Essary

Name (printed) Associate VP for Finance

Title (printed)

9/15/14

Date

Blackboard ("Blackboard")

Signature

TESS FRAZIER

Name (printed)

VICE PRESIDENT

Title (printed)

September 15, 2014

Date