

PROJECT NUMBER 31457
SOFTWARE LICENSE AND MAINTENANCE AGREEMENT
BETWEEN
BLACKBOARD, INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR
MISSISSIPPI STATE BOARD FOR COMMUNITY AND JUNIOR COLLEGES

This Software License and Maintenance Agreement (hereinafter referred to as "Agreement") is entered into by and between Blackboard, Incorporated, a Delaware corporation having its principal place of business at 1111 19th. Street NW, Suite 600, Washington, DC 20036 (hereinafter referred to as "Licensor"), and Mississippi Department of Information Technology Services having its principal place of business at 301 North Lamar Street, Suite 508, Jackson, Mississippi 39201 (hereinafter referred to as "ITS"), as contracting agent for the Mississippi Board for Community and Junior Colleges located at 3825 Ridgewood Road, Jackson, Mississippi 39211 (hereinafter referred to as "Licensee"). ITS and Licensee are sometimes collectively referred to herein as "State".

WHEREAS, Licensee, pursuant to a Letter of Configuration dated September 24, 1999 (hereinafter referred to as "LOC") based on the Software Curriculum Express Products List Request for Proposals (hereinafter referred to as "RFP") Number 3039, requested proposals for the acquisition of an on-line course management software tool that will allow the various community and junior colleges within the state of Mississippi to develop and manage their on-line courses on the Licensee's central server, as described in the LOC; and

WHEREAS, Licensor was the successful proposer in an open, fair and competitive procurement process to provide the software and services described herein;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

The following terms as used herein shall have the following meanings:

1.1 "Documentation" means the published user and technical manuals and documentation that Licensor makes generally available for the Software; the help files included within the Software, and any files containing presentation materials or manuals or other related materials to train and educate instructors, staff and student end users on the use of the Software.

1.2 "Enhancements" means the fixes, updates, upgrades or new versions of the Software or Documentation that Licensor may provide to Licensee under this Agreement.

1.3 "Licensee" means the Mississippi State Board for Community and Junior Colleges, the

fifteen (15) community and junior colleges within Mississippi, their employees and any third party consultants or Outsourcers engaged by Licensee who have a need to know, and who shall be bound by the terms and conditions of this Agreement.

1.4 **"Licensor"** means Blackboard, Inc. and its successors and assigns.

1.5 **"Products"** means the Software, Documentation, Enhancements, and any copy of the Software, Documentation or Enhancements.

1.6 **"Software"** means the machine-readable object code version of the computer programs described in and specifically identified in the attached Exhibit A, whether embedded on disc, tape or other media.

ARTICLE 2 TERM OF AGREEMENT

2.1 The effective date of this Agreement shall be the date it is signed by all parties. Provided that Licensee has paid all applicable fees, its term shall commence as of the date the Software is made available to Licensee (i.e., the date Licensee downloads the Software, or, if Licensor hosts the Software on Licensee's behalf pursuant to a hosting agreement between Licensor and Licensee, then the date Licensor makes the Software available to the Licensee through the World Wide Web portion of the Internet) and shall continue for a period of three (3) years thereafter unless terminated as prescribed elsewhere in this Agreement. All training required under this Agreement shall be completed on or before December 6, 1999 unless a change in this date is mutually agreed to in writing by the Licensee and the Licensor. Software, as used herein, also includes future updates/revisions and new releases of the Software that Licensor may provide to Licensee under this Agreement.

2.2 At the end of the initial term, this Agreement may, upon the written agreement of the parties, be renewed for an additional term, the length of which will be agreed upon by the parties. Sixty (60) days prior to the expiration of the initial term or any renewal term of this Agreement, Licensor shall notify Licensee and ITS of the impending expiration and Licensee shall have thirty (30) days in which to notify Licensor of its intention to either renew or cancel the Agreement.

ARTICLE 3 SCOPE OF LICENSE

3.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive and non-transferable license to use the Products for Licensee's business operations on the server indicated in Exhibit A. Licensee may license additional Software Products or increase the number of servers indicated in Exhibit A by executing a written amendment to this Agreement and paying an additional license fee. The terms and conditions of this Agreement, as well as any additional terms which are agreed upon by the parties, will apply to any upgrades or additional Software Products Licensee may procure from Licensor. Blackboard CourseInfo Enterprise Edition may be procured by Licensee prior to September 30, 2000 at a cost not to exceed the early adopter pricing level of \$50,000.00 per year.

3.2 Should any of the community or junior colleges within the state of Mississippi elect to license the Software for their own use to load on a local server at their campus during the term of this Agreement, the pricing discounts stated in Licensor's Proposal in response to the LOC shall apply.

ARTICLE 4 DELIVERY; RISK OF LOSS, AND ACCEPTANCE

4.1 Licensor shall deliver the Software and Documentation to the location specified by Licensee and pursuant to the delivery schedule mutually agreed to by the parties.

4.2 Licensor shall assume and bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout Licensor's possession thereof.

ARTICLE 5 CONSIDERATION AND METHOD OF PAYMENT

The cost of the Software and services to be provided by Licensor are specified in the attached Exhibit A which is incorporated herein by reference. Licensor shall invoice Licensee for the Software and the services will be invoiced as they are rendered. Licensee shall make payment hereunder in accordance with Mississippi law on "Timely Payment for Purchases by Public Bodies", as amended, which generally provides for payment by Licensee within forty-five (45) days of receipt of the invoice. Licensor understands and agrees that Licensee is exempt from the payment of taxes. All payments shall be in United States currency. No payment, including final payment, shall be construed as acceptance of defective Products or incomplete work, and the Licensor shall remain responsible for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement".

ARTICLE 6 OWNERSHIP, USE AND RESTRICTIONS ON USE

6.1 Licensee acknowledges that the Software Products shall remain the exclusive property of Licensor. Licensee acknowledges that it has no right to nor interest in the Software Products other than as expressly granted herein. Licensee shall not remove any identification notices affixed to the Software Products or their packaging.

6.2 Licensee is granted the right to make sufficient copies of the Products to support its use, and for archival and disaster recovery purposes. Licensee may or may permit its instructors, staff and/or student end users to duplicate the Documentation for purposes related to training such personnel on the creation, maintenance and use of the Software in connection with such users' own instructional activities. Licensee shall include Licensor's confidentiality and proprietary rights notices on any copies made of the Products.

6.3 Licensee acknowledges that the Software Products contain valuable trade secrets and confidential information of Licensor. Licensee agrees to maintain the confidentiality of the Products using at least the same degree of care Licensee uses with Licensee's own confidential information. Neither the Software Products nor any physical media containing the Software may be used, copied, disclosed, broadcast, sold, re-licensed, distributed or otherwise published by Licensee except as expressly permitted by this Agreement.

6.4 Licensee may not resell or sub-license the Software. Further, Licensee understands and agrees that any export from the United States or the subsequent re-export of the Software is prohibited.

6.5 Licensee agrees that except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer any of the Software without the prior written consent of Lessor.

ARTICLE 7 WARRANTIES

7.1 Lessor represents and warrants that it has the right to license the Products provided under this Agreement.

7.2 Lessor represents and warrants that the Products provided by Lessor shall meet or exceed the minimum specifications set forth in the LOC and Lessor's Proposal in response thereto.

7.3 Lessor represents and warrants that all work performed hereunder, including but not limited to consulting, training and Software maintenance, shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Lessor shall, for a period of ninety (90) days from the performance of service, perform the services again, at no cost to the Licensee, or if the Lessor is unable to perform the services as warranted, the Lessor shall reimburse the Licensee the fees paid to the Lessor for the unsatisfactory services.

7.4 Lessor represents and warrants that neither the Software nor Enhancements shall contain a disabling code, lockup program or device. Lessor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Licensee's licensed use of the Software or Enhancements and/or which would restrict Licensee from accessing its data files or in any way interfere with the transactions of Licensee's business. For any breach of this warranty, Lessor at its expense shall, within five (5) working days after receipt of notification of the breach, deliver Products to Licensee that are free of such disabling code, lockup program or device.

7.5 In addition, Lessor represents and warrants that neither the Software nor Enhancements delivered to Licensee contain a computer virus. For purposes of this provision, a computer virus shall be defined as code intentionally inserted in the Software or Enhancements that will damage or destroy Licensee's applications or data. For any breach of this warranty, Lessor at its expense shall, within five (5) working days after receipt of notification of the breach, deliver Products to Licensee that are free of any virus.

7.6 Lessor represents and warrants that the Software will operate free from defects for a period of one (1) year after installation and will provide Licensee complete functionality necessary for the operation of the system as stated in the LOC and the Lessor's Proposal in response thereto.

Licensor's obligations pursuant to this warranty shall include, but are not limited to, the repair of all defects or the replacement of the Software at the expense of Licensor. In the event Licensor is unable to repair or replace the Software within ten (10) working days after receipt of notice of the defect, Licensee shall be entitled to a full refund of fees paid and shall have the right to terminate this Agreement in whole or in part. Licensee's rights hereunder are in addition to any other rights Licensee may have.

7.7 Licensor represents and warrants that the Products are Year 2000 compliant. That is, Licensor warrants that the Products as delivered to and unmodified by Licensee, and as used in accordance with its associated Documentation, will accurately process date/time data including, but not limited to, calculating, comparing and sequencing from, into and between different centuries and leap year calculations, provided that all third party products (e.g., hardware, software, firmware) used in combination with the licensed Products also properly exchange date data with it. If there is a breach of this warranty by Licensor, Licensor shall within thirty (30) calendar days after receipt of notice of the breach, at its expense and option, either repair the Products so as to make them compliant with this warranty or replace the Products with Products which are compliant with this warranty. Nothing in this warranty shall be construed to limit any rights or remedies Licensee may otherwise have under this Agreement with respect to defects other than Year 2000 performance.

ARTICLE 8 INFRINGEMENT INDEMNIFICATION

Licensor represents and warrants that neither the Products, their elements nor the use thereof violates or infringes on any copyright, patent, trade secret or other proprietary right of any person or entity. Licensee shall notify Licensor promptly of any infringement claim of which it has knowledge, and shall cooperate with Licensor in the defense of such claim by supplying information, all at Licensor's expense. Licensor, at its own expense, shall defend or settle any and all infringement actions filed against Licensor or Licensee which involve the Products provided under this Agreement and shall pay all costs, attorney fees, settlements, damages and judgment finally awarded against Licensee. If, in any such suit arising from such claim, the continued use of the Products for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Licensor shall, at its expense: (a) first procure for Licensee the right to continue using the Products, or upon failing to procure such right; (b) modify or replace the Products or components thereof with non-infringing Products so it becomes non-infringing, or upon failing to secure either such right, (c) refund the license fees previously paid by Licensee for the Products Licensee may no longer use. Said refund shall be paid within ten (10) working days of notice to Licensee to discontinue said use.

ARTICLE 9 MODIFICATION

This Agreement may be modified only by written agreement signed by the parties hereto and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 10 ASSIGNMENT AND SUBCONTRACTS

10.1 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder

without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

10.2 Licensor must obtain the written approval of Licensee before subcontracting any portion of this Agreement. No such approval by Licensee of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Licensee in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Licensee may deem necessary.

10.3 Licensor represents and warrants that any subcontract agreement Licensor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Licensee, and that the subcontractor acknowledges that no privity of contract exists between the Licensee and the subcontractor and that the Licensor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Licensor. The Licensor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor's failure to pay any and all amounts due by Licensor to any subcontractor, materialman, laborer or the like.

10.4 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Licensor and the Licensee, where such dispute affects the subcontract.

ARTICLE 11 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the Licensee to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of this Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the Licensee, the Licensee shall have the right to immediately terminate this Agreement without damage, penalty, cost or expense to the Licensee of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. In the event of termination, Licensor shall be entitled to receive just and equitable compensation for satisfactory work completed or services rendered by Licensor in connection with this Agreement as of the date of receipt of notification of termination.

ARTICLE 12 TERMINATION

12.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated in whole or in part as follows: (a) upon the mutual, written agreement of the parties; (b) by Licensee if Licensor becomes the subject of bankruptcy, reorganization, liquidation or

receivership proceedings, whether voluntary or involuntary; (c) by Licensee in the event Licensee determines it is in the best interest of the State of Mississippi to terminate this Agreement, or (d) by either party in the event of a breach of a material term or provision of this Agreement and such breach continues for thirty (30) days after the breaching party receives written notice from the other party. Upon termination, Licensee will be entitled to a refund of applicable unexpended prorated annual Software maintenance fees/charges, if any. In the event of termination, Licenser shall be entitled to receive just and equitable compensation for satisfactory work completed or services rendered by Licenser in connection with this Agreement as of the date of receipt of notification of termination. In no case shall said compensation exceed the total contract price. The provisions of this article do not limit either party's right to pursue any other remedy available at law or in equity, including injunctive relief.

12.2 In the event of termination/expiration of this Agreement, Licensee shall remove the Software from its server and provide Licenser with proof of the destruction of the original copy and any other copies of the Software and return all Documentation to Licenser within a reasonable time at Licensee's expense. Termination of this Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to such termination, nor affect or impair the rights of either party arising under this Agreement prior to such termination, except as expressly provided herein.

ARTICLE 13 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi. Licenser expressly agrees that under no circumstances shall Licensee be obligated to pay an attorneys fee, prejudgment interest or the cost of legal action to Licenser. Further, nothing in this Agreement shall affect any statutory rights Licensee may have that cannot be waived or limited by contract.

ARTICLE 14 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement.

ARTICLE 15 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE 16 CAPTIONS

The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.

ARTICLE 17 HOLD HARMLESS

Licenser shall defend, indemnify, save and hold Licensee and its employees and agents harmless

from any and all liability for personal injuries, death and property damage arising out of Licensor's negligence or willful misconduct in connection with its performance or failure to perform this Agreement.

ARTICLE 18 THIRD PARTY ACTION NOTIFICATION

Licensor shall give Licensee prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Licensor by any entity that may result in litigation related in any way to this Agreement, and/or which may affect the Licensor's performance under this Agreement.

ARTICLE 19 AUTHORITY TO CONTRACT

Licensor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement..

ARTICLE 20 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by facsimile provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: Mr. David L. Litchliter, Executive Director, Mississippi Department of Information Technology Services, 301 North Lamar Street, Suite 508, Jackson, Mississippi 39201. Licensee's address for notice is: Dr. Olon Ray, Executive Director, Mississippi State Board for Community and Junior Colleges, 3825 Ridgewood Road, Jackson, Mississippi 39211. The Licensor's address for notice is: Mr. Andrew Rosen, General Counsel, Blackboard, Inc., 1111 19th. Street NW, Suite 600, Washington, DC 20036. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 21 RECORD RETENTION AND ACCESS TO RECORDS

Licensor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Licensee, ITS, any state or federal agency authorized to audit Licensee, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to any of the Licensor's books, documents, papers and/or records that are pertinent to this Agreement to make audits, examinations, excerpts and transcriptions at the Licensor's office where such records are kept during Licensor's normal business hours. All records relating to this Agreement shall be retained by the Licensor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 22 INSURANCE

Licensor represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Licensor's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Licensor will, upon request, furnish Licensee with a certificate of conformity providing the aforesaid coverage.

ARTICLE 23 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Licensor and Licensee, shall be decided by the Executive Director of Mississippi Department of Information Technology Services or his/her designee. Licensor agrees to continue to provide such service, maintenance and updates as Licensee may contract for and pay for pending the resolution of any dispute hereunder. The decision of the Executive Director shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Nothing in this Article shall abridge the right of either party to seek such other rights and remedies it may have at law or in equity.

ARTICLE 24 COMPLIANCE WITH LAWS

Licensor shall comply with, and all activities under this Agreement shall be subject to, all Licensee policies and procedures, all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Licensor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability.

ARTICLE 25 CONFLICT OF INTEREST

Licensor shall notify Licensee of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Licensee's satisfaction, Licensee reserves the right to terminate this Agreement.

ARTICLE 26 SOVEREIGN IMMUNITY

By entering into this Agreement with Licensor, the Licensee does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 27 CONFIDENTIAL INFORMATION

27.1 Both parties shall treat the other party's data and information to which it has access by Licensor's performance under this Agreement as confidential to the extent that confidential treatment of same is required under federal and/or state law and shall not disclose such data or information to a third party without specific written consent. In the event that either party receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, the said party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by state or federal law. This section shall

survive the termination or completion of this Agreement.

27.2 Licensor and Licensee shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("the Disclosing Party") which: (a) is or becomes known to the public without fault or breach of the party receiving confidential information of the Disclosing Party ("the Recipient"); (b) is furnished by the Disclosing Party to third parties without restriction on subsequent disclosure; (c) the Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation; (d) is already in the Recipient's possession without an obligation of confidentiality, or (e) is independently developed by Recipient without reliance on the confidential information.

ARTICLE 28 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the Licensee or the Licensor on the basis of draftsmanship or preparation hereof.

ARTICLE 29 ENTIRE AGREEMENT

29.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including any "shrink-wrap" version of the Software Product. The ITS Contract Addendum, the Letter of Configuration dated September 24, 1999, Software Curriculum Express Products List RFP No. 3039 and Licensor's Proposals in response thereto are hereby incorporated into and made a part of this Agreement.

29.2 The Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A. This Agreement signed by both parties, and all attachments;
- B. The ITS Contract Addendum;
- C. Letter of Configuration dated September 24, 1999;
- D. Software Curriculum Express Products List RFP No. 3039, and
- E. Licensor's Proposals, as accepted by Licensee, in response to the Letter of Configuration dated September 24, 1999 and the Software Curriculum Express Products List RFP No. 3039.

29.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Licensor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents

listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("E. Lessor's Proposals").

ARTICLE 30 SURVIVAL

Articles 7, 8, 13, 17, 21, 26, 27, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 31 DEBARMENT AND SUSPENSION CERTIFICATION

Lessor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 32 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The Lessor understands and agrees that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Licensee's contractual obligations, financial or otherwise, contained within this Agreement. Further, the Lessor understands and agrees that Licensee is not responsible or liable for the performance or non-performance of any of ITS' obligations, contractual, statutory or otherwise, relating to this Agreement.

ARTICLE 33 TRAINING

Lessor shall, for the fees specified in the attached Exhibit A, provide three (3) full days of on-site training for course developers/instructors at one of the community colleges within Mississippi, the specific one of which is to be determined by Licensee. These three (3) days will be broken down into six (6) one-half (1/2) day sessions. Further, Lessor shall also provide a one half day session of training for system administrators (Level II). Lessor and Licensee shall mutually agree on the time for the training and an outline of the training to be provided. Lessor specifically understands and agrees that Licensee will not accept the Software until Lessor completes the training requirements.

Licensor agrees to provide, upon delivery, all Documentation needed to fully acquaint the user with the operation of the Software. The travel expenses shall not exceed the daily amount allowed by the Mississippi Department of Finance and Administration. All travel and travel expenses must be pre-approved by the Licensee.

ARTICLE 34 SOFTWARE MAINTENANCE

34.1 Prior to expiration of the warranty period, Licensor shall notify Licensee in writing of the impending warranty expiration, and Licensee shall in turn notify Licensor of its decision to either obtain Software maintenance or to forgo Software Maintenance. Upon notification of intent to obtain Software maintenance, Licensor shall provide Licensee, for the annual fee specified in the attached Exhibit A, the Software maintenance services as herein described.

34.2 Licensor shall provide the following Software maintenance services: As part of the Elite Software Support Package, Licensor will maintain the Products in an operable condition according to the specifications contained in the technical manuals and as outlined in the LOC and the Licensor's Proposal in response thereto. Licensor shall make available to Licensee during each annual maintenance period, at least one (1) update to the Software Products that will incorporate any new features or enhancements to the licensed Products. Licensor shall also provide direct modem support and unlimited e-mail and toll-free telephone support for two (2) registered representatives from Licensee and all instructors in the operation of the Software Products Monday through Friday, 7:00 A.M. to 7:00 P.M. (Central Time) with a guaranteed response time of no later than twenty-four (24) hours. Priority placement in the support queue shall be given to all system locking situations or problems claimed by Licensee to be a mission critical process. Licensor will provide support pursuant to this section only with respect to the two (2) most recent updates of the Software. Finally, Licensor shall provide on-site support in the operation of the Software Products if reasonably convenient or necessary in the opinion of the Licensor. Such on-site support will be provided at Licensor's then prevailing rates.

34.3 Sixty (60) days prior to the expiration of the initial Software maintenance period or any renewal term thereof, Licensor shall notify Licensee in writing of the impending expiration and Licensee shall have thirty (30) days in which to notify Licensor of its intentions to either renew or cancel any further Software maintenance. In no event shall the cost for Software maintenance increase by more than five percent (5%) per year.

ARTICLE 35 SOURCE CODE

Provided that the Licensee is not then in substantial default under this Agreement, the Licensor shall provide to Licensee, at no cost and within ten (10) calendar days after receipt of Licensee's written request for it, one (1) complete copy of the data dictionary, Documentation, object code and source code used in the preparation of the Software and custom modifications to the source code and object code as a result of this Agreement, brought up to date as of the date of delivery of such source code to Licensee, upon the occurrence of any of the following events: (a) any or all material part of the source code or object code is generally made available, with or without additional cost, to other users of comparable Software; or (b) the Licensor's or the software manufacturer's cessation, for any

reason, to do business; or (c) the Licensor or the software manufacturer discontinues maintenance of the Software; or (d) bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or other similar proceedings are instituted by or against the Licensor or the software manufacturer.

ARTICLE 36 LIABILITY ISSUES

UNLESS JOINTLY AGREED OTHERWISE IN WRITING, LICENSOR'S LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY LICENSEE TO LICENSOR UNDER THIS AGREEMENT. IN NO EVENT WILL LICENSOR BE LIABLE TO LICENSEE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS, LOST SAVINGS OR LOST REVENUES OF ANY KIND UNLESS LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. EXCLUDED FROM THE LIABILITY LIMITATION IN THIS ARTICLE ARE CLAIMS RELATED TO INFRINGEMENT ISSUES ADDRESSED IN ARTICLE 8 HEREIN; BODILY INJURY; DEATH; PHYSICAL DAMAGE TO TANGIBLE PERSONAL PROPERTY AND REAL PROPERTY AS ADDRESSED IN ARTICLE 17, FAILURE OF THE SOFTWARE TO BE YEAR 2000 COMPLIANT, AND THE INTENTIONAL AND WILLFUL OR GROSS NEGLIGENCE ACTS OF LICENSOR. THE LIMITATION OF LIABILITY LANGUAGE CONTAINED HEREIN WILL APPLY TO LICENSEE TO THE EXTENT IT IS PERMITTED AND NOT PROHIBITED BY THE LAWS OR CONSTITUTION OF THE STATE OF MISSISSIPPI.

For the faithful performance of the terms of this Agreement, the parties have caused this Agreement to be executed by their undersigned representatives.

**State of Mississippi, Department of
Information Technology Services, on
behalf of the Mississippi State Board
for Community and Junior Colleges**

By: David L. Litchliter
Authorized Signature by mes

Printed Name: David L. Litchliter

Title: Executive Director

Date: 11-12-99

Blackboard, Inc.

By: Teresa Kelly
Authorized Signature

Printed Name: Teresa Kelly

Title: Contracts Manager

Date: 10 November, 1999

Exhibit A

RFP 3061 Scope of Services

The objective of this procurement is the acquisition of a software tool that will enable the Mississippi State Board for Community and Junior Colleges to develop and manage online courses.

Deliverable	Description	Qty	Unit Cost	Cost
Software	Three (3) year annual CourseInfo server license	3	10,000.00	30,000.00
Services	Three (3) days (six ½ day sessions) for Instructor Training	3	1,400.00	4,200.00
	One ½ day session for System Administrator Training- Level 2	1	800.00	800.00
Maintenance	Annual Maintenance for Year One - Elite Support Package	1	5,500.00	5,500.00
Total	Software, Services and Maintenance Year One			40,500.00
Recurring Costs	Year Two			
	Annual Maintenance for Year Two - Elite Support Package	1		5,500.00
	Year Three			
	Annual Maintenance for Year Three - Elite Support Package	1		5,500.00
TOTAL	Three Year Life Cycle Costs			51,500.00

SBCJC Minutes: August 16, 2002

Legislative Report

Dr. Randall Bradberry gave a report on two special sessions called by the governor. The first session mainly dealt with Nissan. The legislature appropriated \$56,000,000 in benefits for Nissan Industries.

The second called session dealt with a special appropriation of \$31,500,000 for Howard Industries. Howard is a Mississippi owned and operated company.

Location of Classes for Fall Term

Dr. Evelyn Webb distributed a list of Mississippi's community and junior college locations of classes for the Fall 2002 semester for the Board's review and action (Exhibit H). Upon a motion by Mrs. Veldore Heidelberg and a second by Mr. Lawrence Warren, the Board voted unanimously to approve the listing of locations of classes for the Fall 2002 semester.

Finance Report

Upon a motion by Mrs. Sara Fox and a second by Mrs. Brenda Yonge, the Board voted unanimously to approve the July 31, 2002, Education Enhancement Fund and Budget Contingency Fund Disbursements from Funds 4080, 4110, and 3295 in the total amount of \$2,766,918.68 (Exhibit I).

Upon a motion by Mrs. Sara Fox and a second by Ms. Patricia Randall, the Board voted unanimously to approve the acquisition of course development software license and web hosting services for online courses from Blackboard in the amount of \$112,000 (Exhibit J).

Upon a motion by Mrs. Sara Fox and a second by Mrs. Dorothy Nelson, the Board voted unanimously to approve a contract with Copiah-Lincoln Community College for support of the MSVCC on-line Library (MELO) system in the amount of \$30,000 (Exhibit K).

Mrs. Sara Fox presented Financial Statements for Fund 2291 and 3291 for FY 2002 – Lapse Period (Exhibit L) and Fund 2291 and 3291 for FY 2003, as of July 31, 2002 (Exhibit M). No action was required.

Upon a motion by Mrs. Sara Fox and a second by Mrs. Dorothy Nelson, the Board voted unanimously to approve a change to the SBCJC policy and procedure related to the dollar amount of purchases requiring SBCJC approval from \$10,000 to \$15,000 (Exhibit N).

Mrs. Fox presented a recap of FY 2002 Support Expenditures for the Board's information (Exhibit O). No action was required.

Funding Study Update

Mrs. Deborah Gilbert gave an update on the funding study. The SBCJC Funding Formula Study Advisory Committee reviewed the four proposals received and interviewed the consultants. On behalf of the Committee, Mrs. Gilbert recommended that MGT of America be awarded the contract to complete the study. After negotiating with MGT the original proposed cost of \$129,830 was decreased to \$116,847. The SBCJC will be responsible for \$45,000 toward the contract. A meeting is scheduled with the MACJC presidents on Monday to ask for their help in

Exhibit A**Scope of Services**

The objective of this procurement is the acquisition of course development software license and ASP web hosting services for the Mississippi State Board for Community and Junior College's online courses (i.e., the Mississippi Virtual Community College.)

Deliverable	Description	Qty	Payment Due Date	Monthly Cost	Total Cost
Blackboard Learning System, v 5.6	Software license, maintenance and support for Blackboard's enterprise-level course management system for up to 14,999 Active Users	1	Upon Acceptance	N/A	\$47,500.00
ASP setup fee	Initial setup fee for the Standard Enterprise ASP infrastructure which includes <ul style="list-style-type: none"> • Oracle 8i database software • 20Gb of RAID protected storage • 512 kbps of bandwidth measured using the 95th percentile calculation delivered via 100 mbps Internet uplink 	1	Upon Acceptance	N/A	\$10,000.00
ASP monthly fee	Monthly fee for ASP hosting services for up to 10,000 Active Users	5	August 2002 - December, 2002	\$2,500.00	\$12,500.00
ASP monthly fee	Monthly fee for ASP hosting services for up to 10,000 Active Users	12	January 2003 - December, 2003	\$3,500.00	\$42,000.00
Options	Each additional 10 Gb			\$300.00	
	Each additional 1 mbps of connectivity at \$1,050 per month			\$1,050.00	
TOTAL					\$112,000.00

RECEIVED
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MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES

PROJECT NUMBER 34603
AMENDMENT #1 TO
SOFTWARE LICENSE, MAINTENANCE AND ASP AGREEMENT
BETWEEN
BLACKBOARD, INC.

AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI STATE BOARD FOR COMMUNITY AND JUNIOR COLLEGES

This document (hereinafter referred to as "Amendment Number 1") shall serve to amend the original Software License, Maintenance and ASP Agreement executed on August 8, 2002 (hereinafter referred to as "Agreement") between Blackboard, Inc., a Delaware corporation having its principal place of business at 1899 L Street N.W., Suite 500, Washington, DC 20036 (hereinafter referred to as "Licensor") and the Mississippi Department of Information Technology Services having its principal place of business at 301 North Lamar Street, Suite 508, Jackson, Mississippi 39201 (hereinafter referred to as "ITS") as contracting agent for the Mississippi State Board for Community and Junior Colleges located at 3825 Ridgewood Road, Jackson, Mississippi 39211 (hereinafter referred to as "Licensee").

NOW THEREFORE, ITS, Licensee and Licensor, by entering into this Amendment Number 1, mutually agree that the following provisions shall modify the aforementioned Agreement:

- 1) Article 2, "Term of Agreement" shall be and hereby is amended so as to renew the software licenses and ASP services beginning January 1, 2004 and continuing through December 31, 2004 at the prices specified in the Exhibit A-1 which is attached to this Amendment Number 1 and incorporated herein by reference.

All other terms and conditions of the Agreement executed on August 8, 2002 shall remain unchanged and in full force and effect.

**State of Mississippi, Department of
Information Technology Services, on
behalf of Mississippi State Board for
Community and Junior Colleges**

By: David L. Litchliter
Authorized Signature *by mes*
Printed Name: David L. Litchliter
Title: Executive Director
Date: NOVEMBER 10, 2003

Blackboard, Inc.

By: Teresa Frazier
Authorized Signature
Printed Name: Teresa Frazier
Title: Sr. Director Contracts
Date: 11-0-03

EXHIBIT A-1

Description	Quantity / Term	Price	Extended Price
Blackboard Learning System, v 6.0 12-month license (based on enrollments of 8,000 to 14,999)	1 Year (01/01/04 – 12/31/04)	\$47,500	\$47,500
Blackboard ASP Web Hosting Services – Monthly Fee (10,000 – 17,500 users)	12 Months (01/01/04 – 12/31/04)	\$5,000	\$60,000
TOTAL			\$107,500

*The total for this contract is not-to-exceed \$107,500.00.

Distribution/Filing Instructions

AVH00

**20040269 Community & Junior Colleges, Board for
BLACKBOARD INC**

Send To: JASON PUGH

RECEIVED

NOV 12 2003

Per.....

Community & Junior Colleges, Board for

ATTN: JASON PUGH
E & R Center, Room 519
Box 3, 3825 Ridgewood Road
Jackson MS 39211

Effective Date 10/20/2003
Expiration Date 02/28/2005
Date Printed 11/10/2003

CP-1 Acquisition Approval Form
Dept. of Information Technology Services
301 North Lamar Street, Suite 508
Jackson, MS 39201-1495
(601) 359-1395

CP-1
Approval
Number
20040269

Acquisition Method: LICENSE

Page: 1

This is your authorization from ITS to issue a purchase order and/or make ongoing payments for the following configuration to the vendor listed at the prices itemized. Contracts, if any, have been signed by ITS and forwarded to the vendor. This procurement is contingent upon availability of funds and will not become final until vendor has received a purchase order from your agency. Keep this form with your financial records to provide an audit trail of ITS approval. Reference the CP-1 number and dates covered by the payment on each copy of your purchase order. Contact ITS for revised approval if: vendor or acquisition plan changes; there are major changes to the configuration; CP-1 has expired; or the total expended amount exceeds the CP-1 Lifecycle limit.

It is important to issue your purchase order promptly upon receipt of this CP-1 because the vendor is not required to honor pricing indefinitely. The CP-1 may contain an expiration date beyond the date which the vendor will honor pricing, in order to allow sufficient time to complete paperwork.

291 Community & Junior Colleges, Board for ATTN: Jason Pugh E & R Center, Room 519 Box 3, 3825 Ridgewood Road Jackson, MS 39211 Distance Education	PLACE ORDER TO: BLACKBOARD INC 1899 L ST NW STE 500 WASHINGTON DC 20036 MAKE PAYMENT TO: BLACKBOARD INC 1899 L ST NW STE 500 WASHINGTON DC 20036	V0001693231 V0001693231
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MAX ANNUAL % INCREASE	CP1 LIFECYCLE LIMIT	NUMBER OF PAYMENTS
0.00	108,500.00	1

The Blackboard Learning System has been declared the standard platform by the SBCJC for developing and hosting their Internet-based distance learning program and online courses. The SBCJC was previously on the Basic Edition (i.e., "CourseInfo" product) but experienced performance issues because their increasing volume of courses and student was exceeding the capacity of the MySQL database structure of the Basic Edition.

Contract Amendment #1 attached.

APPROVED ITS DATE:11/10/2003

David D. Litchliter

PRODUCTS AND SERVICES PURCHASE DETAILS

QUANTITY	PRODUCTS	EACH NET	EXTENDED NET
1	Blackboard Learning System 12-month license (8,000 to 14,999 users)	47,500.00	47,500.00
12	Monthly Blackboard ASP Web Hosting Services 1/1/04 - 6/30/05	5,000.00	60,000.00

TOTAL MAXIMUM 107,500.00

COMMODITY CODES -- 20599000000, 92099000000

DISTRIBUTION TO

JASON PUGH - MAIL - COVER PAGE E & R Center, Room 519 Box 3, 3825 Ridgewood Road Jackson, MS 39211

PRNO	ATHY	REPLACEMENT	RFP No(s)
AVH00-34603-1	DIRECTOR APRV	NEW	3039

Effective Date 10/20/2003
Expiration Date 02/28/2005
Date Printed 11/10/2003

CP-1 Acquisition Approval Form
Dept. of Information Technology Services
301 North Lamar Street, Suite 508
Jackson, MS 39201-1495
(601) 359-1395

Page: 2

CP-1
Approval
Number
20040269

Acquisition Method: LICENSE

CP-1 LIFECYCLE REPORT

Product/Services

Blackboard Learning System 12-month license renewal (based on enrollments of 8,000 to 14,999) and monthly Blackboard ASP Web Hosting Services (10,000 - 17,500 users).

Payment frequency MAXIMUM
Max Annual % Increase 0.00

YEAR	PERIOD	PAYMENT AMOUNT	# PMTS	TOTAL FOR YEAR
1	10/20/2003	107,500.00	1	107,500.00
	Total		1	107,500.00
	+MIN(1% / \$1,000)			1,000.00
	Lifecycle			108,500.00

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06 MAY -4 AM 9:59
MASTER LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
INFO TECHNOLOGY

Per.....

PROJECT NUMBER 35758
SUPPLEMENT TO
MASTER LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
BETWEEN
BLACKBOARD INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
AGENCIES AND INSTITUTIONS OF THE STATE OF MISSISSIPPI

This document shall serve as a Supplement to the original Master License and Application Service Provider Agreement executed April 20, 2006 (hereinafter referred to as "Master ASP Agreement"), between Blackboard Inc. (hereinafter referred to as "Blackboard") and Mississippi Department of Information Technology Services (hereinafter referred to as "ITS"), as contracting agent for the agencies and institutions of the State of Mississippi. It is understood by the parties that ITS is executing this Supplement on behalf of the State Board for Community and Junior Colleges (hereinafter referred to as "Licensee"). ITS and Licensee are sometimes collectively referred to herein as "State."

WHEREAS, the State, pursuant to Request for Proposals ("RFP") No. 3452 requested proposals in order to assemble a list of approved vendors who may provide certain software and services necessary for the implementation of an Application Service Provider ("ASP") solution for a learning management system; and

WHEREAS, Blackboard was one of the successful respondents in an open, fair, and competitive procurement process to provide the above mentioned products; and

WHEREAS, the Licensee desires to purchase software and services for an ASP solution for a learning management system;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

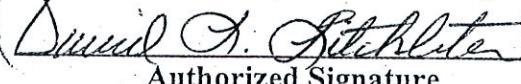
1. This Supplement will become effective on the date it is signed by all parties and will continue in effect until all tasks and ASP services required herein have been completed. Blackboard agrees to complete all initial setup and implementation tasks required under this Supplement on or before June 20, 2006, or within such other period as may be agreed to by the parties.
2. The period of performance of ASP services under this Supplement shall begin on July 1, 2006 and continue until the close of business on June 30, 2009. During this period of time, Blackboard shall provide ASP services as specified in the Master ASP Agreement. The total price (setup, annual fees, and licensing) shall be \$318,340.00 for the first year, \$289,050.00 for the second year, and \$310,913.00 for the third year, and will be payable as set forth in the

attached Exhibit A which is incorporated herein by reference, but in no event will the total compensation to be paid hereunder exceed the specified sum of \$918,303.00, unless prior written authorization from ITS has been obtained. The parties understand and agree that this acquisition is subject to and controlled by the terms and conditions set forth in the Master ASP Agreement, including but not limited to, the terms related to acceptance, invoicing and payment.

3. All other provisions in the underlying Master ASP Agreement shall remain unchanged.

For the faithful performance of the terms of this Supplement, the parties have caused this Supplement to be executed by their undersigned representatives.

**State of Mississippi, Department of
Information Technology Services, on
behalf of Mississippi State Board of
Community and Junior Colleges**

By: 

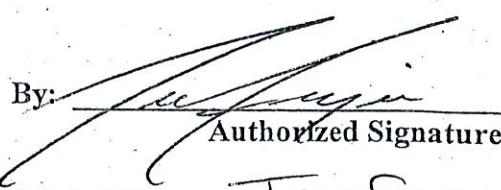
Authorized Signature

Printed Name: David L. Litchliter

Title: Executive Director

Date: 5-4-06

Blackboard Inc.

By: 

Authorized Signature

Printed Name: Tess Frazee

Title: Vice President

Date: 4-28-06

EXHIBIT A

Academic School Year	2006-2007	2007-2008	2008-2009
Number of Service Units	2	2	3
ASP Service Components Costs:			
Setup Fees			
RAC Setup Fee	\$31,500.00	\$0.00	\$0.00
Content System Setup Fee	\$0.00		
Staging Environment Setup Fee	\$0.00		
Additional Service Unit (Year 3)			\$0.00
T&D Environment Setup Fee	\$0.00		
Setup Fees Total	\$31,500.00	\$0.00	\$0.00
Annual Fees			
Content System ASP Annual Fee	\$17,730.00	\$17,730.00	\$17,730.00
Additional Service Units Fee (Year 3 includes one free service unit)	\$29,430.00	\$29,430.00	\$29,430.00
RAC Annual Fee (8 CPU)	\$99,000.00	\$103,500.00	\$108,000.00
Staging Environment	\$29,430.00	\$29,430.00	\$29,430.00
Test & Development Environment	\$11,700.00	\$11,700.00	\$11,700.00
Complex Hosting Manager - 20% time dedicated	\$36,000.00	\$36,000.00	\$36,000.00
1 TB Storage Pricing	\$0.00	\$19,260.00	\$23,760.00
Annual Fees Total	\$223,290.00	\$247,050.00	\$256,050.00
Licensing			
	TIER IV	TIER V	TIER V
Content System License	\$36,000.00	\$42,000.00	\$54,863.00
Online Training (60 courses)	\$17,550.00		
Onsite Training (4 days)	\$10,000.00		
Licensing and Training Total	\$63,550.00	\$42,000.00	\$54,863.00
TOTAL PRICE (SETUP, ANNUAL, & LICENSING)	\$318,340.00	\$289,050.00	\$310,913.00

EXHIBIT A

PAYMENT SCHEDULE:

Year 1:

Will be invoiced after execution of contract supplement (Due Net 45)

Academic Suite onsite training due in full	\$10,000.00
Online Training	\$17,550.00
Setup Fees for RAC	\$31,500.00
TOTAL	\$59,050.00

Invoiced May 15, 2006*** - Completion of RAC and Content system is scheduled for June 20, 2006 (Due Net 60)

Content System License	\$36,000.00
Additional service unit	\$29,430.00
Content system Hosting	\$17,730.00
RAC annual fee	\$99,000.00
Staging Environment	\$29,430.00
Complex Hosting Manager	\$36,000.00
Test and Development Environment	\$11,700.00
1 TB Storage	\$0.00
TOTAL	\$259,290.00

Year 2:

Invoiced Feb 20, 2007*** (Due Net 45)

Content System	\$42,000.00
TOTAL	\$42,000.00

EXHIBIT A

Year 2 (continued):

Invoiced June 20, 2007*** - 6 months of ASP Services (Due Net 45)

RAC Annual Fee - \$103,500/2	\$51,750.00
Staging Environment -- \$29,430/2	\$14,715.00
Content system hosting - \$17,730/2	\$8,865.00
Additional Service unit - \$29,430/2	\$14,715.00
Test and Dev Environment - \$11,700/2	\$5,850.00
Complex hosting manager - \$36,000/2	\$18,000.00
1 TB Storage - \$19,260/2	\$9,630.00
TOTAL	\$123,525.00

Invoiced Sept 20, 2007*** - 6 months of ASP Services (Due Net 45)

RAC Annual Fee - \$103,500/2	\$51,750.00
Staging Environment -- \$29,430/2	\$14,715.00
Content system hosting - \$17,730/2	\$8,865.00
Additional Service unit - \$29,430/2	\$14,715.00
Test and Dev Environment - \$11,700/2	\$5,850.00
Complex hosting manager - \$36,000/2	\$18,000.00
1 TB Storage - \$19,260/2	\$9,630.00
TOTAL	\$123,525.00

Year 3:

Invoiced Feb 20, 2008*** (Due Net 45)

Content System	\$54,863.00
TOTAL	\$54,863.00

EXHIBIT A

Year 3(continued):

Invoiced June 20, 2008*** - 6 months of ASP Services (Due Net 45)

RAC Annual Fee - \$108,000/2	\$54,000.00
Staging Environment - \$29,430/2	\$14,715.00
Content system hosting - \$17,730/2	\$8,865.00
Additional Service unit - \$29,430/2	\$14,715.00
Test and Dev Environment - \$11,700/2	\$5,850.00
Complex hosting manager - \$36,000/2	\$18,000.00
1 TB Storage - \$23,760/2	\$11,880.00
TOTAL	\$128,025.00

Invoiced Sept 20, 2008*** - 6 Months of ASP Services (Due Net 45)

RAC Annual Fee - \$108,000	\$54,000.00
Staging Environment - \$29,430/2	\$14,715.00
Content system hosting - \$17,730/2	\$8,865.00
Additional Service unit - \$29,430/2	\$14,715.00
Test and Dev Environment - \$11,700/2	\$5,850.00
Complex hosting manager - \$36,000/2	\$18,000.00
1 TB Storage - \$23,760/2	\$11,880.00
TOTAL	\$128,025.00

*****NOTE:** The parties understand and agree that the invoice dates specified above are dependent upon Blackboard completing setup and implementation and Licensee accepting same as specified in the Master ASP Agreement on or before June 20, 2006. Should the setup, implementation, or acceptance by Licensee be delayed beyond June 20, 2006, all subsequent invoice dates will be adjusted accordingly.

RECEIVED REC'D MAY 2 2007
07 APR 27 AM 9:38
MASTER LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
INFO TECHNOLOGY SERVICES
BLACKBOARD INC.

PROJECT NUMBER 36987
SUPPLEMENT TO
MASTER LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
BETWEEN
BLACKBOARD INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
AGENCIES AND INSTITUTIONS OF THE STATE OF MISSISSIPPI

This document shall serve as a Supplement to the original Master License and Application Service Provider Agreement executed April 20, 2006, and amended on September 11, 2006, January 3, 2007, and March 30, 2007 (hereinafter referred to as "Master ASP Agreement"), between Blackboard Inc. (hereinafter referred to as "Blackboard") and Mississippi Department of Information Technology Services (hereinafter referred to as "ITS"), as contracting agent for the agencies and institutions of the State of Mississippi. It is understood by the parties that ITS is executing this Supplement on behalf of the Mississippi State Board for Community and Junior Colleges (hereinafter referred to as "Licensee"). ITS and Licensee are sometimes collectively referred to herein as "State."

WHEREAS, the State, pursuant to Request for Proposals ("RFP") No. 3452 requested proposals in order to assemble a list of approved vendors who may provide certain software and services necessary for the implementation of an Application Service Provider ("ASP") solution for a learning management system; and

WHEREAS, Blackboard was one of the successful respondents in an open, fair, and competitive procurement process to provide the above mentioned products; and

WHEREAS, the Licensee desires to purchase software and services for an ASP solution for a learning management system;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

1. This Supplement will become effective on the date it is signed by all parties and will continue in effect until all tasks and ASP services required herein have been completed. Blackboard agrees to complete all initial ASP setup and ASP implementation tasks required under this Supplement on or before July 1, 2007, or within such other period as may be agreed to by the parties.

2. The period of performance of services under this Supplement shall begin on April 1, 2007, and continue until the close of business on March 31, 2010. During this period of time, Blackboard shall provide services as specified in the Master ASP Agreement. The total price (setup, annual fees, licensing, consulting services, maintenance and training) shall be

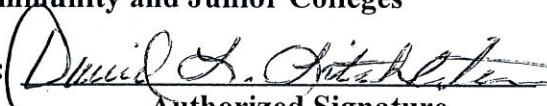
\$3,041,946.00 for the first year, \$2,992,098.00 for the second year, and \$3,565,967.00 for the third year, and will be payable as set forth in the attached Exhibit A, Exhibit B, and Exhibit C which are incorporated herein by reference, and in no event will the total compensation to be paid hereunder exceed the specified sum of \$9,600,011.00, unless prior written authorization from ITS has been obtained. The parties understand and agree that this acquisition is subject to and controlled by the terms and conditions set forth in the Master ASP Agreement, including but not limited to, the terms related to acceptance, invoicing and payment.

3. It is understood and agreed upon by the parties that the mutually agreed upon Statement of Work must be in place prior to any work being performed pursuant to this Supplement.

4. All other provisions in the underlying Master ASP Agreement shall remain unchanged.

For the faithful performance of the terms of this Supplement, the parties have caused this Supplement to be executed by their undersigned representatives.

**State of Mississippi, Department of
Information Technology Services, on
behalf of the Mississippi State Board for
Community and Junior Colleges**

By: 
Authorized Signature

Printed Name: David L. Litchliter

Title: Executive Director

Date: 4-27-07

Blackboard Inc.

By: 
Authorized Signature

Printed Name: Tess Frazier

Title: Vice President

Date: 4/24/07

EXHIBIT A

Licensee's Contact Information: Wayne Stonecypher, Executive Director
State Board for Community & Junior Colleges
3825 Ridgewood Road
Jackson, Mississippi 39211

601-432-6684
scypher@sbcjc.cc.ms.us

Year 1	Cost
Outcomes Software License and Support Based On:	
1 - 2000 FTE (Coahoma Community College)	\$72,137.00
1 - 2000 FTE (Southwest Community College)	\$72,137.00
2,001 - 4,000 FTE (East Central Community College)	\$90,684.00
2,001 - 4,000 FTE (Copiah-Lincoln Community College)	\$90,684.00
2,001 - 4,000 FTE (Northeast Mississippi Community College)	\$90,684.00
2,001 - 4,000 FTE (Mississippi Delta Community College)	\$90,684.00
2,001 - 4,000 FTE (Pearl River Community College)	\$90,684.00
2,001 - 4,000 FTE (Meridian Community College)	\$90,684.00
2,001 - 4,000 FTE (Holmes Community College)	\$90,684.00
2,001 - 4,000 FTE (East Mississippi Community College)	\$90,684.00
4,001 - 8,000 FTE (Jones County Junior College)	\$109,976.00
4,001 - 8,000 FTE (Itawamba Community College)	\$109,976.00
4,001 - 8,000 FTE (Northwest Mississippi Community College)	\$109,976.00
8,001 - 15,000 FTE (Hinds Community College)	\$131,319.00
8,001 - 15,000 FTE (Mississippi Gulf Coast Community College)	\$131,319.00
ASP Hosting Services – Additional Service Unit (1)	\$29,430.00
Complex Hosting Manager – Additional 25% FTE	\$54,000.00
Additional Storage – in 1 Terabyte Increments (2)	\$47,520.00
Outcomes Hosting	\$47,520.00
Total:	\$1,640,782.00

Year 2	Cost
Outcomes Software License and Support Based On:	
1 - 2000 FTE (Coahoma Community College)	\$99,188.00
1 - 2000 FTE (Southwest Community College)	\$99,188.00
2,001 - 4,000 FTE (East Central Community College)	\$124,690.00
2,001 - 4,000 FTE (Copiah-Lincoln Community College)	\$124,690.00
2,001 - 4,000 FTE (Northeast Mississippi Community College)	\$124,690.00
2,001 - 4,000 FTE (Mississippi Delta Community College)	\$124,690.00
2,001 - 4,000 FTE (Pearl River Community College)	\$124,690.00
2,001 - 4,000 FTE (Meridian Community College)	\$124,690.00
2,001 - 4,000 FTE (Holmes Community College)	\$124,690.00
2,001 - 4,000 FTE (East Mississippi Community College)	\$124,690.00
4,001 - 8,000 FTE (Jones County Junior College)	\$151,217.00
4,001 - 8,000 FTE (Itawamba Community College)	\$151,217.00
4,001 - 8,000 FTE (Northwest Mississippi Community College)	\$151,217.00
8,001 - 15,000 FTE (Hinds Community College)	\$180,563.00
8,001 - 15,000 FTE (Mississippi Gulf Coast Community College)	\$180,563.00
ASP Hosting Services – Additional Service Units (2)	\$49,050.00
Complex Hosting Manager – Additional 25% FTE	\$54,000.00
Additional Storage – in 1 Terabyte Increments (2)	\$47,520.00
Outcomes Hosting	\$47,520.00
Total:	\$2,208,763.00

Year 3	Cost
Outcomes Software License and Support Based On:	
1 - 2,000 FTE (Coahoma Community College)	\$126,239.00
1 - 2,000 FTE (Southwest Community College)	\$126,239.00
2,001 - 4,000 FTE (East Central Community College)	\$158,696.00
2,001 - 4,000 FTE (Copiah-Lincoln Community College)	\$158,696.00
2,001 - 4,000 FTE (Northeast Mississippi Community College)	\$158,696.00
2,001 - 4,000 FTE (Mississippi Delta Community College)	\$158,696.00
2,001 - 4,000 FTE (Pearl River Community College)	\$158,696.00
2,001 - 4,000 FTE (Meridian Community College)	\$158,696.00
2,001 - 4,000 FTE (Holmes Community College)	\$158,696.00
2,001 - 4,000 FTE (East Mississippi Community College)	\$158,696.00
4,001 - 8,000 FTE (Jones County Junior College)	\$192,458.00
4,001 - 8,000 FTE (Itawamba Community College)	\$192,458.00
4,001 - 8,000 FTE (Northwest Mississippi Community College)	\$192,458.00
8,001 - 15,000 FTE (Hinds Community College)	\$229,808.00
8,001 - 15,000 FTE (Mississippi Gulf Coast Community College)	\$229,808.00
ASP Hosting Services – Additional Service Units (4)	\$74,556.00
Complex Hosting Manager – Additional 25% FTE	\$54,000.00
Additional Storage – in 1 Terabyte Increments (2)	\$47,520.00
Outcomes Hosting	\$47,520.00
Total:	\$2,782,632.00

EXHIBIT B

Licensee's Contact Information: Wayne Stonecypher, Executive Director
State Board for Community & Junior Colleges
3825 Ridgewood Road
Jackson, Mississippi 39211

601-432-6684
scypher@sbcjc.cc.ms.us

Training Services – One-Time			
Workshop	Hourly Rate	Estimated Effort	Estimated Subtotal
Community System Administration	\$2,700/day	3 days	\$8,100.00
Content System Essentials & Administration	\$2,700/day	3 days	\$8,100.00
Total Training Services:			\$16,200.00

Consulting Services – Year 1			
Service	Hourly Rate	Estimated Effort	Estimated Subtotal
Implementation Planning	\$215/hr	216 hrs	\$46,440.00
Program Management	\$215/hr	400 hrs	\$86,000.00
Multi-Institution Configuration	\$215/hr	296 hrs	\$63,640.00
Centralized Content System Strategy	\$215/hr	264 hrs	\$56,760.00
Custom Development: User & Course Management	\$215/hr	248 hrs	53,320.00
ASP Snapshot Integration (8 Schools)	\$215/hr	632 hrs	\$135,880.00
ASP Snapshot Integration (8 Schools)	\$215/hr	632 hrs	\$135,880.00
Executive Institutional Effectiveness Planning	\$215/hr	799.76 hrs	\$171,948.00
Outcomes Assessment Design	\$215/hr	500.70 hrs	\$107,651.00
Outcomes System Design & Deployment	\$215/hr	1621.5441 hrs	\$348,632.00
Estimated Travel Fees			\$133,813.00
Total Consulting Services – Year 1:			\$1,339,964.00

Annual Maintenance (ICM) – Year 1			
Activity		Cost	
ICM for Snapshot Integration			\$30,000.00
ICM for Custom Development: User & Course Management Solution			\$15,000.00
Total Maintenance – Year 1:			\$45,000.00
Consulting Services – Year 2			
Service	Hourly Rate	Estimated Effort	Estimated Subtotal
Program Management	\$215/hr	200 hrs	\$43,000.00
Executive Institutional Effectiveness Planning	\$215/hr	799.76 hrs	\$171,948.00
Outcomes Assessment Design	\$215/hr	500.70 hrs	\$107,651.00
Outcomes System Design & Deployment	\$215/hr	1621.5441 hrs	\$348,632.00
Estimated Travel Fees			\$67,104.00
Total Consulting Services – Year 2:			\$738,335.00

Annual Maintenance (ICM) – Year 2			
Activity		Cost	
ICM for Snapshot Integration			\$30,000.00
ICM for Custom Development: User & Course Management Solution			\$15,000.00
Total Maintenance – Year 2:			\$45,000.00

Consulting Services – Year 3			
Service	Hourly Rate	Estimated Effort	Estimated Subtotal
Program Management	\$215/hr	200 hrs	\$43,000.00
Executive Institutional Effectiveness Planning	\$215/hr	799.76 hrs	\$171,948.00
Outcomes Assessment Design	\$215/hr	500.70 hrs	\$107,651.00
Outcomes System Design & Deployment	\$215/hr	1621.5441 hrs	\$348,632.00
Estimated Travel Fees			\$67,104.00
Total Consulting Services – Year 3:			\$738,335.00

Annual Maintenance (ICM) – Year 3			
Activity		Cost	
ICM for Snapshot Integration			\$30,000.00
ICM for Custom Development: User & Course Management Solution			\$15,000.00
Total Maintenance – Year 3:			\$45,000.00

EXHIBIT C

Licensee's Contact Information: Wayne Stonecypher, Executive Director
State Board for Community & Junior Colleges
3825 Ridgewood Road
Jackson, Mississippi 39211

601-432-6684
scypher@sbcjc.cc.ms.us

Payment Schedule

Year 0 (FY 07)				
				Q4 (June 30th*)
Outcomes Software Licensing				\$0
Blackboard ASP (Hosting)				\$0
Blackboard Global Services (Consulting)				\$300,000.00
Quarterly Sum	\$0	\$0	\$0	\$300,000.00

Year 1 (FY 08)				
	Q1 (June 30th*)	Q2 (Sept 30th*)	Q3 (Dec 30th*)	Q4 (Mar 28th*)
Outcomes Software Licensing	\$1,096,731.00	\$0	\$365,581.00	\$0
Blackboard ASP (Hosting)	\$131,250.00	\$0	\$47,220.00	\$0
Blackboard Global Services (Consulting)	\$0	\$350,000.00	\$400,000.00	\$351,164.00
Quarterly Sum	\$1,227,981.00	\$350,000.00	\$812,801.00	\$351,164.00

Year 2 (FY 09)				
	Q1 (June 30th*)	Q2 (Sept 30th*)	Q3 (Dec 30th*)	Q4 (Mar 28th*)
Outcomes Software Licensing	\$1,005,337.00	\$0	\$1,005,336.00	\$0
Blackboard ASP (Hosting)	\$99,045.00	\$0	\$99,045.00	\$0
Blackboard Global Services (Consulting)	\$195,550.00	\$195,550.00	\$195,550.00	\$196,685.00
Quarterly Sum	\$1,299,932.00	\$195,550.00	\$1,299,931.00	\$196,685.00

Year 3 (FY 10)				
	Q1 (June 30th*)	Q2 (Sept 30th*)	Q3 (Dec 30th*)	Q4 (Mar 28th*)
Outcomes Software Licensing	\$1,279,518.00	\$0	\$1,279,518.00	\$0
Blackboard ASP (Hosting)	\$111,798.00	\$0	\$111,798.00	\$0
Blackboard Global Services (Consulting)	\$195,550.00	\$195,550.00	\$195,550.00	\$196,685.00
Quarterly Sum	\$1,586,866.00	\$195,550.00	\$1,586,866.00	\$196,685.00

* Represents invoicing date for Blackboard to MSBCJC.

Notes:

- All payments will be made in accordance with the Master ASP Agreement.
- Consulting includes estimated travel and expenses.
- Years 4 and 5 special pricing provisions for License Fees:
 - Year 4: License Fees will be capped at no more than 10% increase over Year 3.
 - Year 5: License Fees will be capped at no more than 10% increase over Year 4.
- 15 Instances for each of the following products will be provided to the State for distribution to the 15 community and junior colleges:
 - Developers License
 - Learning System Test Server License
 - Community System Test Server License
 - Content System Test Server License
 - Outcomes System Test Server License