

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

BLACKBOARD MASTER TERMS

These Blackboard Master Terms ("Master Terms"), made this 1st day of July, 2002 ("Effective Date"), by and between Blackboard Inc., a Delaware corporation having an address at 1899 L Street, NW, Fifth Floor, Washington, DC 20036 ("Blackboard") and The University of Montana - Missoula having an address at #32 Campus Drive, Missoula MT 59812 ("Customer").

Blackboard offers software and services to scale from course websites, to an entire online campus and that allows institutions to establish and manage accounts for a stored value card system and security access system. Customer wishes to adopt the Blackboard technology to enhance its own educational programs, and Blackboard is willing to provide the Blackboard technology to Customer for this purpose.

Therefore, in consideration of the following mutual covenants and agreements, the parties agree as follows:

1. SCOPE OF AGREEMENT.

1.1 **Exhibits and Schedules.** These Master Terms describe the general terms by which Customer may license Software (as defined below) and purchase Services (as defined below) and Equipment from Blackboard as set forth in a Schedule. The specific terms related to the license of Software and purchase of Services and/or Equipment are described in the appropriate Software or Service Schedules, and Exhibits thereto (collectively referred to as "Schedules"). Each Schedule and these Master Terms together constitute a separate agreement (the "Agreement") between Blackboard and Customer. Schedules may be added or deleted from time to time by the agreement of the parties, but Customer is only authorized to license Software or purchase Services hereunder to the extent that one or more applicable Schedules is executed and in force.

1.2 **Order of Precedence.** The provisions of any Schedule will take precedence over these Master Terms, to the extent that they are inconsistent. In the event of any inconsistencies between the terms of these Master Terms and any referenced, attached, or preprinted terms and conditions on the purchase order, these Master Terms shall take precedence.

2. DEFINITIONS

2.1 **Affiliates** means, with respect to any entity, any other entity Controlling, Controlled by or under common Control with such entity, whether directly or indirectly through one or more intermediaries.

2.2 **Available Date** means the date upon which an install copy of the Software and/or the Equipment is made available to Customer. An install copy of the Software or the Equipment is "made available" to the Customer either (i) on the date on which Blackboard has notified Customer that an install copy of the Software is available for download; (ii) on the date Blackboard notifies Customer that the Software may be accessed on the Blackboard ASP server; or (iii) the date on which the Software made available for installation via diagnostic modem; or (iv) on the date Blackboard ships Equipment to Customer. The download site will be made available to Customer for a period of thirty (30) days and Customer MUST download the Software within this thirty day period. A CD containing a backup copy of the Software can be sent to Customer upon Customer's request.

2.3 **Confidential Information** means any non-public information about a party, including, without limitation, the party's business, vendors, customers, products, services, employees, finances, costs, expenses, financial or competitive condition, policies, and practices, computer software programs and programming tools and their respective design, architecture, modules, interfaces, databases and database structures, nonfunctional elements, capabilities and functionality, source code and object code, research and development efforts, marketing and distribution efforts, licensing, cross-licensing, marketing and distribution practices; computer software programs and other information licensed or otherwise disclosed to a party in confidence by a third party, and any other non-public information that does or may have economic value by reason of not being generally known.

2.4 **Control** and its derivatives shall mean legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding voting capital stock (or other ownership interest, if not a corporation) of an entity, or actual managerial or operational control over such entity.

2.5 **Corrections** shall mean 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 permanent form of an Update.

2.6 **Documentation** means Blackboard's applicable standard end user documentation for the Software and/or Equipment, which may be amended from time to time.

2.7 **Equipment** means the hardware and firmware related to the stored value card system and security access system as identified on Blackboard's then-current price list.

2.8 **Customer Content** means any content (including, but not limited to, course materials and the copyrights, patents, trade secrets, and other intellectual property related thereto) provided by or through Customer for use with the Software or the Application Software if applicable.

2.9 **Services** means any consulting, educational, ASP installation, system administration, training or maintenance and support services provided by Blackboard to Customer.

2.10 **Software** means the object code version of the Blackboard software as described on the Software schedule(s) and Supported Interfaces (and any Documentation and help files included within the Software), including any Corrections, Updates and Upgrades provided pursuant to the maintenance and support terms of such schedule.

2.11 **Supported Interfaces** means application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Software as described in the Documentation ("Installation Guide").

2.12 **Updates** shall mean the object code versions of the Software that has been developed by Blackboard to correct any software error therein 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).

2.13 **Upgrades** shall mean 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).

3. SOFTWARE AND SERVICES

3.1 **Software License/Maintenance and Support Services.** Blackboard will provide Customer with Software as well as maintenance and support services set forth on the applicable Software Schedule attached hereto for each annual period that Customer has paid the associated License Fees.

3.2 **Sale of Equipment.** Blackboard will sell to Customer, and Customer shall purchase from Blackboard, the Equipment pursuant to the terms and conditions in Schedule A. If no Equipment Schedule is attached, Customer acknowledges that Blackboard has no obligation to provide any Equipment to Customer.

3.3 **Learning Solutions.** Blackboard will provide Customer with the learning solutions set forth on the Learning Solutions Schedule attached hereto. If no Learning Solutions Schedule is attached, Customer acknowledges that Blackboard has no obligation to provide any learning solutions to Customer.

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

3.4 ASP Services. Blackboard will provide Customer with the ASP services set forth in any ASP Schedule attached hereto. If no ASP Services Schedule is attached, Customer acknowledges that Blackboard has no obligation to provide Customer with any installation, configuration or other professional consulting services.

3.5 Additional Services. Blackboard will provide Customer with any other services that are set forth in a separate schedule attached hereto. If no additional Schedules are attached, Customer acknowledges that Blackboard has no obligation to provide Customer with any additional services.

4. CONFIDENTIALITY

4.1 Non-disclosure and Non-use. Each party receiving Confidential Information, including but not limited to, Materials containing Confidential Information shall (a) disclose such Confidential Information 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 Confidential Information; and (b) use such Confidential information only for the purposes set forth in this Agreement. Each party receiving Confidential Information shall treat such information as strictly confidential, and shall use the same care to prevent disclosure of such information as such party uses with respect to its own confidential and proprietary information, which shall not be less than the care a reasonable person would use under similar circumstances. Notwithstanding the foregoing, each party may disclose Confidential Information to the extent necessary pursuant to applicable federal, state or local law, regulation, court order, or other legal process, provided the receiving party has given the disclosing party prior written notice of such required disclosure and, to the extent reasonably possible, has given the disclosing party an opportunity to contest such required disclosure at the disclosing party's expense.

4.2 Notice. The receiving party will notify the disclosing party immediately in the event the receiving party learns of any unauthorized possession, use or knowledge of the Confidential Information and/or Materials containing Confidential Information and will cooperate with the disclosing party in any litigation against any third persons necessary to protect the disclosing party's rights with respect to the Confidential Information and Materials.

4.3 Terms of Agreement. Except as otherwise provided by law, neither party shall disclose the terms of the Agreement to any third party; provided, however, that either party may disclose the terms of this Agreement to its affiliates, attorneys and accountants, or to any potential investor or acquirer of a substantial part of such party's business (whether by merger, sale of assets, sale of stock or otherwise) that is bound by a written agreement to keep such terms confidential, or as may be required by law.

This Agreement and all information received as a result of Blackboard's proposal may be considered "Public Record" in accordance with Montana statute. In accordance with 2-8-102 and 18-4-304 MCA, subject to the limitations of the Uniform Trade Secrets Act 30-14-401 et. seq. MCA., all writings and documents received shall be available for public inspection.

5. TERM; TERMINATION

5.1 Term. These Master Terms and the agreement between the parties shall commence as of the Effective Date and shall continue until the expiration or termination of all Schedules.

5.2 Default. Either party may, at its option, terminate these Master Terms and any or all Schedules if a material default by the other party is not corrected within thirty (30) days after receipt of a written notice of the default.

5.3 Mutual Termination. Either party may terminate these Master Terms and any or all Schedules, immediately by written notice, if the other party breaches any Software Schedule or Section 4 of these Master Terms.

2002 - CONFIDENTIAL AND PROPRIETARY

5.4 Effect of Termination. Termination of the 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 the Agreement prior to such termination, except as expressly provided herein.

5.5 Survival. The termination or expiration of the Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

6. FEES; PAYMENT

6.1 Fees. Customer shall pay Blackboard the fees in US Dollars specified in the Schedules attached as applicable.

6.2 Payment and Late Fees. Customer shall pay Blackboard the Fees thirty (30) days from date of receipt of an accurate invoice, not in formal dispute. In accordance with the applicable Schedules and in no event later than forty-five (45) days of the date of invoice from Blackboard. Blackboard expressly reserves the right to change the License Fee and Maintenance and Support Fee for any Renewal Term. Any overdue amounts will bear a late fee at the rate of eighteen percent (18%) per annum or the maximum rate permitted by applicable law, whichever is less. All fees are payable in U.S. dollars and shall be sent to the attention of Blackboard's Accounts Receivable Department.

6.3 Audit. For the sole purpose of ensuring compliance with this Agreement, Blackboard shall have the right, at its expense, to audit Customer's use of the Software upon at least seven (7) days advance notice. Any such audit shall be during Customer's normal business hours and shall not be made more frequently than once every twelve months.

6.4 Taxes. The fees hereunder do not include any sales, use, excise, import or export, value-added or similar tax and interest, as well as any costs associated with the collection or withholding thereof, and all government permit fees, license fees and customs and similar fees levied on the delivery of the Software or the performance of Services by Blackboard to Customer. Customer is an agency of the State of Montana and is exempt from federal and state taxes. The Customers' federal Excise Tax exemption number is 81-0902402. Federal Excise exemption certificates will be furnished upon request. The State of Montana has no sales tax. All payments due under this Agreement shall be made without any deduction or withholding, unless such deduction or withholding is required by any applicable law or any relevant governmental revenue authority then in effect. If Customer is required to deduct or withhold, Customer will promptly notify Blackboard of the requirement, pay the required amount to the relevant governmental authority, provide Blackboard with an official receipt or certified copy or other documentation acceptable to Blackboard evidencing payment, and pay to Blackboard, in addition to the payment to which Blackboard is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Blackboard equals the full amount Blackboard would have received had no such deduction or withholding been required.

6.5 Billing Contact. Customer's billing/invoicing point of contact is:

Name	Jorun Listen
Title	Director
Address	#32 Campus Drive, Missoula, MT 59812
E-mail:	jorun@mcn.umt.edu
Telephone number	(406) 243-4732

7. DISCLAIMERS AND REMEDIES

7.1 Limited Warranty. Unless otherwise indicated on an attached Schedule, Blackboard warrants to Customer, subject to the remedy limitations set forth herein, that during (i) a period of twelve (12) months from the Available Date of the Equipment manufactured by Blackboard or third-party Equipment sold by

Master Terms 2

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

Blackboard, unless otherwise specified in the applicable Schedule(s) and (ii) a period of ninety (90) days from License Available Date for the Software manufactured by Blackboard, that such Equipment and Software will substantially conform to the applicable Documentation, provided that Blackboard has received all amounts owed under this Agreement and Customer is not in default of any part of this Agreement. Customer must notify Blackboard in writing of the deficiency within the warranty period and must install any generally-released Corrections, Upgrades and Updates. Blackboard's sole obligation is limited to repair or replacement of the defective Software or Equipment in a timely manner.

7.2 Disclaimer of Warranty. EXCEPT FOR THE LIMITED WARRANTY IN SECTION 7.1 ABOVE AND ANY SPECIFIC WARRANTIES PROVIDED IN AN ATTACHED SCHEDULE(S), THE SOFTWARE, EQUIPMENT AND ALL PORTIONS THEREOF, AND ANY SERVICES ARE PROVIDED "AS IS," TO THE MAXIMUM EXTENT PERMITTED BY LAW. BLACKBOARD AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS SPECIFICALLY PROVIDED IN AN ATTACHED SCHEDULE(S), NEITHER BLACKBOARD NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE SOFTWARE WILL MEET ANY REQUIREMENTS OR NEEDS CUSTOMER MAY HAVE, OR THAT THE SOFTWARE WILL OPERATE ERROR FREE, OR IN AN UNINTERRUPTED FASHION, OR THAT ANY DEFECTS OR ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE IS COMPATIBLE WITH ANY PARTICULAR OPERATING SYSTEM. BLACKBOARD AND ITS LICENSORS MAKE NO GUARANTEE OF ACCESS OF ACCURACY OF THE CONTENT CONTAINED ON OR ACCESSED THROUGH THE SOFTWARE.

7.3 Limitations of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL BLACKBOARD OR ITS LICENSORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, EQUIPMENT OR ANY PORTION THEREOF, DEFECTS IN WARRANTY, ANY SERVICES, OR FOR ANY CLAIM BY ANY OTHER PARTY, EVEN IF BLACKBOARD AND/OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL BLACKBOARD'S LIABILITY EXCEED THE AMOUNT OF FEES PAID FOR THE PARTICULAR SOFTWARE, EQUIPMENT AND/OR SERVICE LICENSED UNDER EACH SCHEDULE HEREUNDER FOR THE CURRENT TWELVE (12) MONTH PERIOD.

8. INDEMNIFICATION

8.1 Blackboard. Blackboard agrees to protect, defend, and save The University of Montana, the State of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against claims, demands, and causes of action or character, including the cost of defense thereof, arising out of Blackboard's or Blackboard's employees gross negligence or misconduct under this Agreement. If Customer receives a claim that the use of the Software or Equipment infringes a patent, copyright or other intellectual property right, Customer must promptly notify Blackboard in writing. Blackboard shall, at its own expense and option: (i) defend and settle such claim; (ii) procure Customer the right to use the Software or Equipment; (iii) modify or replace the Software or Equipment to avoid infringement; or (iv) refund the applicable fee paid for the current term. In the event Blackboard exercises option (i) above, it shall have the sole and exclusive authority to defend and/or settle any such claim or action, provided that Blackboard will keep Customer informed of, and will

consult with any independent attorneys appointed by Customer at Customer's own expense regarding the progress of such litigation.

8.2 Exemptions. Blackboard shall have no liability to Customer under Section 8.1 or otherwise for any claim or action alleging infringement based upon (i) any use of the Software or Equipment in a manner other than as specified by Blackboard; (ii) any combination of the Software or Equipment by Customer with other products, equipment, devices, software, systems or data not supplied by Blackboard (including, without limitation, any software produced by Customer for use with the Software) to the extent such claim is directed against such combination; or (iii) any modifications or customization of the Software or Equipment by any person other than Blackboard ("Customer Matter").

8.3 Customer. Customer shall, at its own expense, defend or, at its option, settle any claim, suit or proceeding brought against Blackboard arising out of a Customer Matter and shall pay any damages, finely awarded or settlement amounts agreed upon to the extent based upon a Customer Matter ("Blackboard Claim"); provided that Blackboard provides Customer with (i) prompt written notice of such Blackboard Claim; (ii) control over the defense and settlement of such Blackboard Claim; and (iii) proper and full information and assistance to settle or defend any such Blackboard Claim.

8.4 Exclusive Remedy. BLACKBOARD SHALL HOLD CUSTOMER AND THE STATE OF MONTANA (THE "STATE") HARMLESS FROM ANY LIABILITY, COSTS OR PENALTIES IN ANY WAY RESULTING FROM THE PERFORMANCE OF ITS SERVICES RELATED TO THIS CONTRACT OR FROM THE CONDUCT OR ACTIONS OF ANY PERSONS PROVIDED BY BLACKBOARD FOR PERFORMANCE OF THIS AGREEMENT AND WILL INDEMNIFY CUSTOMER AND THE STATE FOR ANY COSTS OF DEFENSE PAID BECAUSE OF GROSSLY NEGIGENT" ACTIONS OR OMISSIONS OF BLACKBOARD OR ANY BLACKBOARD EMPLOYEE IN THE PERFORMANCE OF THIS AGREEMENT, NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE TO A THIRD PARTY FOR DAMAGES CAUSED TO THE THIRD PARTY BY THE NEGLIGENCE OF THE OTHER PARTY TO THIS CONTRACT; RATHER, EACH PARTY SHALL BE LIABLE AS ALLOWED BY LAW FOR DAMAGE CAUSED BY ITS OWN NEGLIGENCE.

9. MISCELLANEOUS

9.1 Separability. Should any term or provision of this Agreement be finally determined by a court of competent jurisdiction to be void, invalid, unenforceable or contrary to law or equity, the offending term or provision shall be modified and limited (or if strictly necessary, deleted) only to the extent required to conform to the requirements of law and the remainder of this Agreement (or, as the case may be, the application of such provisions to other circumstances) shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law, and the parties shall use their best efforts to substitute for the offending provision new terms having similar economic effect.

9.2 Conflict Resolution. In the event of a dispute between the Parties relating to the terms and conditions of this Master Terms or any Schedule, or the performance of the Parties hereunder, the Parties shall first attempt to resolve the dispute by informal discussions involving their appointed representatives within thirty (30) days of the dispute arising.

9.3 Arbitration. If any dispute, controversy or claim cannot be resolved to the satisfaction of both Parties pursuant to Section 9.2 above within Section 9.2's thirty (30) day period, either Party may, submit the matter to binding arbitration to be finally settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") then obtaining, by a panel of three arbitrators; provided, however, that this clause shall not be construed to limit or to preclude either Party from bringing an action in a court of competent jurisdiction for injunctive or other provisional relief as necessary or appropriate. Each Party shall have the right to appoint one arbitrator from the list of arbitrators supplied to the parties by the AAA, and the

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

two arbitrators so appointed shall appoint the third. Any award or determination of the arbitration shall be final, non-appealable, and conclusive and binding upon the parties, and any court of competent jurisdiction thereon may enter judgment. Any award shall include interest from the date of damages incurred for breach or other violation of this Agreement, and from the date of the award until paid in full, at a rate to be fixed by the arbitrators. The prevailing party may recover its costs of arbitration, including reasonable expert witness fee and reasonable attorneys' fees.

9.4 Governing Law. This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of Montana without reference to its conflicts of law provisions. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be commenced in the District Court, Missoula County, Missoula, MT. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

9.5 Modification and Waiver. Any modification, amendment, supplement, or other change to this Agreement or any Schedule attached hereto must be in writing and signed by a duly authorized representative of Blackboard and Customer. All waivers must be in writing. The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver of the future of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any other provision or right herein.

9.6 Assignment. No right or obligation of Customer under this Agreement may be assigned, delegated or otherwise transferred, whether by agreement, operation of law or otherwise, without the express prior written consent of Blackboard, and any attempt to assign, delegate or otherwise transfer any of Customer's rights or obligations hereunder, without such consent, shall be void. Subject to the preceding sentence, this Agreement shall bind each party and its permitted successors and assigns. Blackboard agrees to provide Customer with 30 day notice of assignment.

9.7 Remedies. The parties agree that any breach of this Agreement would cause irreparable injury for which no adequate remedy at law exists; therefore, the parties agree that equitable remedies, including without limitation, injunctive relief and specific performance, are appropriate remedies to redress any breach or threatened breach of this Agreement, in addition to other remedies available to the parties. All rights and remedies hereunder shall be cumulative, may be exercised singularly or concurrently, and shall not be deemed exclusive except as provided in Sections 6, 7 and 8. If any legal action is brought to enforce any obligations hereunder, the prevailing party shall be entitled to receive its attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive.

9.8 Notices. Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier, sent by facsimile, or mailed by certified or registered mail, postage prepaid, return receipt requested, and addressed as set forth above or to such other address as shall be given in accordance with this Section 9.8, and shall be effective upon receipt.

9.9 Force Majeure. Except with regard to payment obligations, neither party will be responsible for any failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts or inability to obtain any export or import license or other approval or authorization of any government authority.

9.10 U.S. Government Sales. If Customer is a U.S. Government entity, the Software is provided with RESTRICTED RIGHTS. Each of the components that comprise the Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R.

227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Software with only those rights set forth herein. Contractor/manufacturer is Blackboard Inc., 1889 L Street, N.W., Suite 500, Washington, DC 20036. All rights not specifically granted in this statement are reserved by Blackboard.

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

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

9.13 Non-Discrimination. The University of Montana does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to Business Services-Purchasing. Vendors should provide as much advance notice as possible. Blackboard must comply with Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. All hiring for supplies and services necessary as a result of this contract must be on the basis of merit and qualifications; there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the person performing under a subsequent contract.

9.14 Access and Retention of Records. Blackboard agrees to provide The University of Montana, Montana State Legislative Auditor, or their authorized agents, access to any records, related to this Agreement only, necessary to determine contract compliance (Ref: 18-1-116, MCA). Blackboard agrees to create and retain records supporting the services rendered or the equipment and supplies delivered, for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

9.15 Insurance. Blackboard further agrees that in accordance with Montana Code Annotated 39-71-401 and 39-71-405, Blackboard is responsible for Workers Compensation coverage for its employees or, if entering into the contract as a sole proprietor or a member of a partnership, Blackboard agrees to comply with all provisions of Montana Law with respect to Workers Compensation coverage and to provide The University of Montana, Business Services-Purchasing with proof of compliance with the relevant statutory provision cited herein. Blackboard shall provide insurance as required by this section. Certifications of insurance coverage shall be filed with The University of Montana, Business Services-Purchasing Office within thirty (30) days of notice of award of contract. A signed contract issued, as notice of award shall not be considered valid until The University of Montana, Business Services-Purchasing office has received the certificates.

Workers Compensation Insurance Coverage: Blackboard is required to maintain Workers Compensation or an Independent Contractors Exemption. Blackboard shall maintain for the duration of the contract, at its cost, Workers Compensation Insurance Coverage covering Blackboard and/or employees while performing work for The University of Montana in accordance with Section 39-71-120/401/405, Montana Code Annotated. Neither Blackboard nor its employees are employees

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

of The University of Montana for the State of Montana. This insurance/exemption must be valid for the entire contract period.

Comprehensive General Liability Insurance Coverage: Blackboard shall maintain for the duration of the contract, at its cost, primary insurance coverage against claims for injuries to persons or damages to property including contractual liability which may arise from work performed under this contract. This insurance shall cover such claims as may be caused by an act, omission, or negligence of Blackboard or its officers, agents, representatives, assigns, or servants. Blackboard must provide a certificate for Commercial General Liability and Commercial Automobile Liability (Occurrence Coverage), to include bodily injury, personal injury, and property damage with combined single limits of \$1,000,000 per claim and \$1,500,000 aggregate per year, from insurer with a Best's Rating of no less than A-. This certificate MUST name The University of Montana as an additional insured under Blackboard's policy including Blackboard's general supervisor, products, premises and automobiles used.

9.16 Unavailability of Funds. Customer, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (18-4-313 (3), MCA).

9.17 Certificate of Authority to Transact Business. Blackboard understands any business entity, domestic or

foreign, intending to transact business in Montana must apply for authority to do so with the Montana Secretary of State. Foreign business entities are obligated to determine whether they are transacting business in Montana, in accordance with sections 35-1-1026 and 35-3-1001, MCA, and if so, must apply for and receive a certificate of authority and continue to be in good standing with the Secretary of State for the duration of the contract. Violation of these requirements may void the contract. Proof of authority is required. Questions or registration may be accomplished by contacting the Secretary of State at (406) 444-3665 or by e-mail at sos@state.mt.us.

9.18 Department. Blackboard certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any governmental department or agency.

9.19 Entire Agreement. An Agreement, which includes these Master Terms, and the applicable Schedule(s) and Exhibit(s), constitute the entire, full and complete Agreement between the parties concerning the subject matter hereof, and they collectively supersede all prior or contemporaneous oral or written communications, proposals, conditions, representations and warranties, and prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the parties relating to its subject matter.

IN WITNESS WHEREOF, the parties hereto have executed these Master Terms as of the date first written above.

BLACKBOARD

Signature

Terry Palmer

Print Name and Title

SENIOR DIRECTOR

Date:

9/23/02

CUSTOMER

The University of Montana - Missoula

Signature

Lu Terry, Purchasing Agent

Print Name and Title

September 23, 2002

Date:

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

**SCHEDULE A
EQUIPMENT PURCHASE**

This EQUIPMENT PURCHASE SCHEDULE ("Schedule") shall be governed by the terms and conditions of the Blackboard Master Terms ("Master Terms") dated as of the 1st day of July, 2002 between Blackboard and Customer. Terms used in this Schedule that are not defined below shall have the meaning set forth in the Master Terms.

1. CONVEYANCE OF EQUIPMENT.

During the Term of this Agreement, Customer shall purchase, acquire, and accept from Blackboard, and Blackboard shall sell, transfer and convey all of Blackboard's right, title and interest in and to the Equipment listed in the Initial Purchase Orders that are the subject of this purchase and any Purchase Orders which may be provided subsequent to the Initial Purchase.

2. CONSIDERATION FOR EQUIPMENT.

2.1 **Fees.** Customer shall pay to Blackboard the amount set forth in the Purchase Order for the Equipment in accordance with the payment provisions of the Agreement. Payments shall be sent to Blackboard, Inc. Box 100188 Pittsburgh, PA 15251-0188.

2.2 **Changes In Fees.** Blackboard reserves the right to change its fees during the Term. Any increase in fees shall not affect any Purchase Orders accepted by Blackboard prior to the implementation of such new prices. All Purchase Orders placed by Customer after implementation of any fee increase but before the date such fee increase is effective, shall be, by the Purchase Order's terms, for delivery no later than ninety (90) days after the date such price increase is effective, unless otherwise agreed by Blackboard. Any decrease in fees shall be effective immediately upon publication by Blackboard and shall be applicable to all outstanding Purchase Orders accepted by Blackboard.

3. ORDERING; DELIVERY

3.1 **Order Process.** Customer must request Equipment by submitting to Blackboard a (1) Purchase Order or (2) a valid quote accompanied by check or credit card information. No Purchase Order will be binding until accepted by Blackboard in writing, and Blackboard will have no liability to Customer with respect to any Purchase Orders that are not accepted. No partial shipment of a Purchase Order shall constitute the acceptance of the entire Purchase Order. All Purchase Orders issued by Customer to Blackboard shall be governed in all respects by the terms and conditions of this Agreement. Except for non-conflicting administrative terms as provided below, any additional or

3.2 **Cancellation.** Customer may not cancel a Purchase Order executed concurrently with the execution of this Agreement. However, Customer may cancel any subsequent Purchase Order on written notice to Blackboard of at least thirty (30) days prior to the estimated shipment date; provided that Customer first pays Blackboard a cancellation charge, as liquidated damages and not a penalty, equaling fifteen percent (15%) of the total price of the affected Purchase Order.

3.3 **Shipment and Delivery Terms.** Shipping dates will be established by Blackboard upon acceptance of Purchase Orders. Shipping dates will be assigned as close as practicable to the Customer's requested dated based on Blackboard's then-current lead time. Blackboard shall not be liable for damage or penalty for delay in delivery or failure to give notice of any delay. Packing slips will be included in all shipments and an order number or agreement number will be shown on all acknowledgments, packing slips and invoices. Blackboard shall make deliveries under this Schedule in accordance with its standard delivery procedures. All freight, insurance, and other shipping expenses, as well as expenses for any special packing requested by Customer shall be prepaid by Blackboard and subsequently invoiced to Customer. Should Customer desire to expedite shipment of Equipment, Customer will be charged an additional 10 (ten) percent of the total purchase price for such expedited shipment.

3.4 **Title and Risk of Loss.** Title to any product that Blackboard sells outright to Customer hereunder shall vest in Customer immediately upon receipt FOB Destination. Risk of loss or damage to any product shall pass to Customer upon passage of title or upon receipt if title does not pass to Customer.

4. **Equipment Warranty Exclusion.** Blackboard does not warrant or provide support for all third-party Equipment sold by Blackboard, including, but not limited to, Hewlett Packard Server, Datacard Video Imaging Equipment, and Lantronix Terminal Server. Customer must contact Equipment manufacturer directly for any warranty or support issues related to the Equipment.

5. **Term.** This Schedule shall commence on the Available Date and shall continue until the Master Terms is terminated.

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

BLACKBOARD

CUSTOMER

The University of Montana - Missoula

Signature:

TERRY FRAZIER

Print Name and Title:

SENIOR DIRECTOR

Date:

9/23/02

Signature:

LIL TERRY, Purchasing Agent

Print Name and Title:

September 23, 2002

Date:

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

SOFTWARE SCHEDULE B - 1

BLACKBOARD TRANSACTION SYSTEM™ SOFTWARE LICENSE

This Blackboard Software Schedule between Blackboard and Customer is an attachment to the Master Terms between Blackboard and Customer and is effective as of the Effective Date. The Master Terms are an integral part of this Schedule and are incorporated herein by reference. Capitalized terms shall have the meaning set forth in the Master Terms.

SITE: SCHEDULE OF LICENSE FEES

Software	Level of Support	Initial Term Fees (USD)
Blackboard Transaction System - UNIX Edition Commerce Security Access	Basic-Included in Initial Term	\$34,134
Maintenance and Support for Initial Term	Gold	\$2,500 \$36,634
Total Fees Due:		
Designated Server Site (Physical Location of the Software): #32 Campus Drive, Missoula, MT	Designated Server: HP-L1000	Operating System: UNIX
		Blackboard User Band: 15,000 to 24,899

1. LICENSE

1.1 **Grant of License.** Subject to the terms and conditions of this Schedule and the Master Terms, Blackboard grants Customer a limited, non-exclusive, nontransferable, license to use one executable version of the Software at Customer's site and on the server designated above solely with the number of workstations, point-of-sale devices or other equipment identified on the attached Equipment Schedule (as such may be amended) that are covered by the limited warranty in Section 7.1 of the Master Terms or maintenance and support services.

1.2 **Copies.** Customer may not copy the Software, or any portion thereof, in whole or in part, except as is necessary to load, operate and use one installation copy of the Software. In addition, Customer may make one (1) copy of the Software for backup and archival 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. Customer may transfer the Software from one server to another at no additional license fee provided that Customer gives written notice to Blackboard within five (5) business days of such installation and Customer deletes the Software from the server no longer in use and from each back-up copy for that server.

1.3 **Intellectual Property Restrictions.** Except as otherwise expressly set forth in this Schedule, in writing executed by both parties, or in the Master Terms, Customer shall not (i) copy the Software, in whole or in part; (ii) adapt, alter, create derivative works based on, modify, or translate the Software, in whole or in part; (iii) sell, assign, distribute, lease, market, rent, sublicense, transfer, make available, or otherwise grant rights to the Software in whole or in part to any third party in any form; (iv) electronically transfer the Software in whole or in part from one computer to another over a network or enable any timesharing or service bureau use of the Software; (v) obscure, remove or alter any of the trademarks, trade names, logos, patent or copyright notices or markings on the Software; (vi) add any other notices or markings to the Software or any portion thereof; or (vii) reverse engineer, decompile or disassemble any component of the Software or otherwise obtain or attempt to obtain the source code for the Software. Customer acknowledges that Blackboard shall be entitled to equitable relief, including preliminary and permanent injunctive relief, in addition to other legal remedies, in the event that Customer breaches this Article.

1.4 **Ownership of Software.** Blackboard or its licensors has and shall have sole and exclusive ownership of all right, title and interest in and to the Software and all portions and copies thereof. In addition, Blackboard or its licensors shall have sole and exclusive ownership of any Corrections, Updates and/or Upgrades provided to Customer for the Software. Customer acknowledges that Blackboard shall be entitled to equitable relief, including preliminary and permanent injunctive relief, in addition to other legal remedies, in the event that Customer breaches either this Article 1 or the confidentiality provisions set forth in the Master Terms.

2. FEES

2.1 In consideration of the license granted herein, Customer shall pay to Blackboard the non-cancelable, non-refundable License Fee specified above in accordance with the terms and conditions of the Master Terms. Payments shall be sent to Blackboard, Inc. Box 200168 Pittsburgh, PA 15251-0168. Blackboard reserves the right to modify the License Fee at any time after the Initial Term. Except as provided above, each Party will be responsible for its own expenses incurred in rendering performance under this Schedule, including the cost of facilities, work space, computers and computer time, development tools and platforms, utilities management, personnel, supplies and the like.

2.2 Expansion of Licensed Use.

Blackboard Transaction System Software is priced annually based upon Blackboard User Bands. Blackboard User Bands are comprised of the number of cardholders. A cardholder will be defined as any individual associated with a licensing institution that can reasonably be anticipated to use a card within the forward licensing period (12 months).

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For the Software on this Schedule, Customer's license for the Software on this Schedule may be expanded in increments as indicated below:

Cardholder Ranges	Annual Software Fee
Fewer than 2000 cardholders	\$5000
2000-3999 cardholders	\$12500
4000-7999 cardholders	\$25000
8000-14999 cardholders	\$37500
15000-24999 cardholders	\$50000
25000-49999 cardholders	\$60000
50000-74999 cardholders	\$65000
75000-99999 cardholders	\$70000

Additional bands of 25,000 cardholders will be priced at an additional \$5,000 / year.

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

3. TERM, TERMINATION
 This Schedule will commence July 1, 2002. Unless earlier terminated as provided in the Master Terms, this Schedule will remain in effect for a period of one (1) year ("Initial Term"). Thereafter, this Schedule will renew for successive one (1) year terms (each, a "Renewal Term") as mutually agreed, not to exceed a period of ten (10) years, provided that Customer sends the License Fee within thirty (30) days of receipt of an invoice from Blackboard. If Customer decides not to renew this Schedule or if the Schedule otherwise terminates as provided in the Master Terms, Customer must immediately remove the Software from its server and provide Blackboard with proof of the destruction of the original copy and any other copies of the Software and return all Documentation to Blackboard within a reasonable time at Customer's cost.

4. SUPPORT AND MAINTENANCE

4.1 Maintenance. Blackboard will provide Customer with Upgrades, Corrections and Updates to the Software as they are made generally available from time to time. Software declared by Blackboard to be a general release ("General Release") shall be installed within generally available from time to time. Software declared by Blackboard to be customer installable. Blackboard reserves the right to terminate this Schedule upon thirty (30) ninety (90) days of being made generally available by Blackboard. Blackboard reserves the right to terminate this Schedule upon thirty (30) days prior written notice, provided, Customer has not installed such Software. Notwithstanding any other provision of this Schedule, Blackboard shall provide maintenance and support only with respect to the then current generally available version(s) and/or General Release version.

4.2 Installation and Assistance. Blackboard will install Software provided pursuant to this Schedule during the Coverage Hours as defined in Schedule C-1, provided, Blackboard has not deemed Software to be customer installable. In the event Software is deemed by Blackboard to be customer installable, Blackboard will provide telephone assistance during Coverage Hours. In either instance, Customer will schedule in advance with Blackboard for such telephone assistance or installation of Software.

4.3 Purchase of Maintenance and Support Services. Customer may purchase maintenance and support services in accordance with the applicable Schedule.

4.4 Additional Services. Any time or expense incurred by Blackboard in diagnosing or fixing problems that are not caused by the Software or are not covered by the maintenance and support services are billable to Customer at Blackboard's then-existing rates, with a minimum charge of \$175.00 per call. If Customer desires such additional services, it must execute a copy of Blackboard's Professional Services Agreement and applicable Schedule(s) for the services.

5. ONLINE CARD OFFICE TECHNICAL SPECIFICATIONS

5.1 Hosting Storage and Access. Blackboard shall provide Licensee storage space and access to Online Card Office software (the "Application Software") through a server maintained by Blackboard (the "Site") for the purpose of making the Application Software accessible to authorized users via the Internet (the "Application Hosting Services").

5.2 Security Specifications. Blackboard shall maintain commercially reasonable physical and system security measures, including, but not limited to, those set forth on Attachment 1 to this Software Schedule.

5.3 Card Processor. Blackboard provides connectivity with such credit card processors, at the levels designated, as set forth on Attachment 1 to this Software Schedule ("Processors") for the purpose of authorization and settlement of credit card transactions. Licensee shall establish a merchant account with a financial institution that processes credit card transactions with one of the Processors within thirty (30) days of the execution of this Schedule. Changes required to support changes of Licensee's bank, credit cards accepted by Licensee, or credit card processor of Customer's bank, or communication interfaces with the credit card processor will be chargeable to Licensee and performed on a timely basis upon written notice to Blackboard. Changes required to the Software to enable Licensee to change card processors or communication interfaces to a card processor will be subject to a one-time charge for labor and licensing of software, to be determined by Blackboard at the time of the change request.

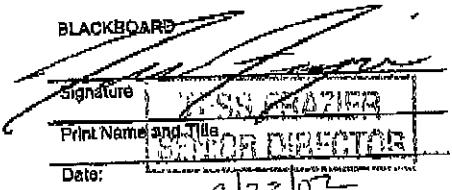
5.4 Set up and Installation. Licensee will pay Blackboard a one-time set up fee for the set up and configuration of ASP services and Licensee-accessible website for the Online Card Office portion of the Software, in accordance with the Documentation. Licensee shall provide Blackboard with Licensee content to be placed on the Licensee-accessible web site, in accordance with the Documentation. Licensee acknowledges that Blackboard may include links on the Blackboard Online Card Office web site that promotes, offers, or links to other Blackboard products and services within the Blackboard.com website.

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5.6 **Fiscal responsibility.** Licensee retains responsibility for compliance with all rules and regulations of any bank, card association, card processor and other entities related to issuance, acceptance, and settlement and clearing of payment transactions conducted through the System.

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

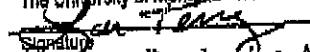
BLACKBOARD

Signature: 
Print Name and Title: DIRECTOR DIRECTOR

Date: 9/23/02

CUSTOMER

The University of Montana - Missoula

Siganture: 
Lu Terry, Purchasing Agent
Print Name and Title

Date: September 23, 2002

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

**ATTACHMENT 1 TO SCHEDULE B - 1
ONLINE CARD OFFICE SPECIFICATIONS**

SERVICE LEVEL

SECURITY:

- Single point of entry to co-location is guarded 24 hours a day with access controlled by an access database and video surveillance.
- Monitoring of the co-location area and only those persons authorized by a customer's access list are allowed past a central point.
- Surveillance cameras located throughout the facility capture activity to help ensure no unauthorized entry to protected areas.

POWER:

- State-of-the-art generators clean and condition commercial electrical power to remove irregularities in the signal. Power is run through the generators before being passed into the facility.
- In the event of a loss of power from the grid, power backups are utilized in the following order: commercial utility underground conduits, two-hour battery backup (industry standard only 15 minutes), diesel generator with full-load capability and 18 hr. fuel supply.

ACCESSIBILITY/SERVICE CREDIT:

The Software is accessible 24/7, with a 99% uptime guarantee. 99% uptime means that for 99% of the time during any calendar month, the Online Card Office portion of the Software shall be available. Unavailability is a condition in which there is unavailability of the hardware due to hardware failure OR sustained packet loss in excess of fifty percent within the Blackboard hosting facilities for at least fifteen consecutive minutes due to a failure of Blackboard to provide hosting services during such period; unavailability does not include packet loss or network unavailability due to scheduled maintenance, or inability of a user to connect with the Blackboard Online Card Office portion of the Software due to internet or telecommunications problems outside the control of Blackboard.

DISASTER RECOVERY:

Blackboard provides comprehensive backups, which are stored at a separate facility. Blackboard retains backup data for one month. In the event of a disaster, Blackboard will use reasonable efforts to restore service. Blackboard will not attempt to restore service if such attempt shall put Blackboard, its employees or its agents at risk for injury.

OUTAGES

If a System Outage occurs, Blackboard will notify designated System Administrator via email. This notice will include the reason for the System Outage and estimated time for restoration of Services if Blackboard knows this information when it gives this notice.

Following recovery from the System Outage, Blackboard will provide Licensee with a post-incident summary that will include:

- cause of the System Outage (if determined);
- method used to correct the problem; and
- measures Blackboard will take to prevent similar System Outages in the future (if any).

Upon notification of a problem with the Blackboard system or the Services, Blackboard will investigate the problem and determine if a System Outage exists. If a System Outage exists, Blackboard will provide Licensee with a time estimate for resolution of the problem, if known at that time. Blackboard will promptly commence remedial activities and use commercially reasonable efforts to resolve the System Outage within the time estimates provided to Licensee.

MONITORING AND PERFORMANCE

Blackboard will make network performance reports available focusing on the technical aspect of remote access network services. The reports provide information to help in the continual improvement of the design and operation of the network. This includes information such as port availability, connection quality, usage profiles, and throughput.

STARTUP:

Blackboard is responsible for the setup and configuration of the necessary hardware, software and all components of the dedicated server. This includes but not limited to, the server hardware and software, telecommunication hardware and software, security software and other software that is reasonably necessary to operate and maintain the Blackboard Software.

ONGOING:

The hardware, software and network are monitored and maintained by Blackboard and will be accessible twenty-four (24) hours a day, seven (7) days a week, in accordance with industry standards, except for scheduled maintenance and required repairs, in advance of which the client shall be notified by email. In addition, Blackboard continuously evaluates emerging hardware for speed and robustness and possible use in our environment.

- Blackboard maintains responsibility for all day-to-day server maintenance. Server maintenance may include, but is not limited to, hardware upgrades, OS upgrades, patch installations, database administration, server user administration and performance tuning.
- Blackboard maintains a software monitoring system to provide real-time information about the ASP environment to the Blackboard Network Operations Center (NOC), to assist Blackboard system administrators proactively monitoring the ASP environment.
- Blackboard guarantees the functioning of all hardware components and will replace any failed components. Hardware replacement will begin immediately upon identification of the hardware failure and if cannot be completed with a reasonable amount of time, the Blackboard application will be redirected to a temporary server to reduce downtime.
- Blackboard implements a backup strategy of performing daily incremental & weekly full backups with a retention period of 1 month. Standard tape rotation is performed on a weekly basis with archive offsite storage.
- Blackboard collects bandwidth usage and web hit statistics on all client hosted machines. This information will be provided upon request.
- Monitoring and event notification procedures are standardized, and are described in a separate document.

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ONLINE CARD OFFICE HOSTING SUPPORT

The hardware, software and network are monitored and maintained by Blackboard and will be accessible twenty-four (24) hours a day, seven (7) days a week, in accordance with industry standards, except for scheduled maintenance and required repairs, in advance of which the client shall be notified by email. In addition, Blackboard continuously evaluates emerging hardware for speed and robustness and possible use in our environment.

DATA CENTER SPECIFICATIONS

Blackboard houses servers in a facility that offers environment control, security, and backup power, as more specifically described below:

ENVIRONMENT:

- The data center is designed to maintain a constant temperature of 88°F, plus or minus 2°F, with humidity of 45%.

SERVER SETUP:

- The servers are set up to maintain fallback, redundant connectivity, comprehensive backups, 24x7 monitoring, 99% uptime.

CARD PROCESSORS

Licensee's bank shall process credit cards through:

- First Data Merchant Services - Nashville, OR
- Vital Processing Services

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SCHEDULE C

**BLACKBOARD TRANSACTION SYSTEM™
SOFTWARE AND EQUIPMENT MAINTENANCE AND BASIC SUPPORT**

This BLACKBOARD TRANSACTION SYSTEM SOFTWARE AND EQUIPMENT MAINTENANCE AND SUPPORT SCHEDULE ("Schedule") shall be governed by the terms and conditions of the Blackboard Master Terms ("Master Terms") dated as of the 1st day of July, 2002 between Blackboard and Customer. Terms used in this Schedule that are not defined below shall have the meaning set forth in the Master Terms.

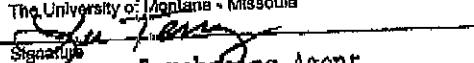
CHECK APPLICABLE EXHIBIT(S):

<input checked="" type="checkbox"/>	Schedule C-1: Blackboard Transaction System™ Maintenance and Support
<input type="checkbox"/>	Exhibit C1.1 - Add on Software Platinum Package (Optional)
<input checked="" type="checkbox"/>	Exhibit C1.2 - Add on Software Gold Package (Optional)
<input checked="" type="checkbox"/>	Exhibit C1.3 - Equipment List
<input type="checkbox"/>	Exhibit C1.4 - Add on Equipment Silver Package (Optional)

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date first written above-

BLACKBOARD

Signature: **ROBERT TERRY**
Print Name and Title: **DIRECTOR**
Date: **9/23/02**

CUSTOMER
The University of Montana - Missoula

Signature: **Lu Terry**, Purchasing Agent
Print Name and Title:
September 23, 2002
Date:

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SCHEDULE C-1
BLACKBOARD TRANSACTION SYSTEM™ MAINTENANCE AND SUPPORT

This BLACKBOARD TRANSACTION SYSTEM MAINTENANCE AND SUPPORT SCHEDULE ("Schedule") shall be governed by the terms and conditions of the Blackboard Master Terms ("Master Terms") dated as of the 1st day of July, 2002 between Blackboard and Customer, and terms used in this Schedule that are not defined below shall have the meaning set forth in the Master Terms.

1. SCOPE

1.1 After the initial warranty period described in the Master Terms for the applicable Software or Equipment, Blackboard will provide Customer with the maintenance and support services for the applicable Blackboard Transaction System™ Software and Equipment covered by this Schedule and attached Exhibits in accordance with Blackboard's then-current maintenance and support policies. Blackboard shall determine in its sole discretion, based on its policies, the most appropriate manner in which to provide maintenance and support. To the extent that Customer has purchased Silver, Gold or Platinum level service, such additional services are covered by the applicable exhibit to this Schedule.

1.2 In order to provide these services in a timely, efficient and effective manner, Blackboard may require the Customer's reasonable cooperation, at no cost to Blackboard. For the purposes of providing the support and maintenance services under this Schedule, and upon Blackboard's request, Customer shall provide Blackboard service personnel with full, free, safe, and timely access to all System components covered by this Schedule or components which materially affect the operation of System components covered by this Schedule.

1.3 Blackboard's access to the Software may include, as Blackboard recommends, but is not limited to, dial-in access to the diagnostic modem on the applications and/or host computer or workstations and physical access to the Customer premises.

1.4 Solely to permit Blackboard to provide maintenance and support services, Customer shall maintain (i.) Internet access protocols as agreed with Blackboard; or (ii.) a diagnostic dial up modem attached to the application and/or host computer. Customer shall also maintain and run, on its applications and/or host computer, a fully licensed copy of the remote system management communication software recommended by Blackboard. If Customer requires Blackboard to notify System Administrator prior to initiating dial-in access, Customer may recommend that Blackboard provide the disable dial-in access during periods when scheduled access is not required or requested. Customer may request that Blackboard provide the modem and communication software to Software Maintenance customers for a nominal yearly maintenance fee. Such modem and communication software shall be returned to Blackboard upon the termination of this Schedule or Customer will pay Blackboard the then current retail price of the modem and communication software.

1.5 If reasonable access is not provided upon reasonable request, Customer shall be deemed to have waived Blackboard's performance of the maintenance and support services until such access is provided. Blackboard shall have no liability for such inability to perform maintenance and support services in such event.

1.6 Customer shall identify a System Administrator to be trained and certified through Blackboard Learning Center. Blackboard reserves the right to add a surcharge to annual maintenance and support service fees in the event that a certified System Administrator is not provided. Blackboard shall not be held responsible for any costs incurred by the Customer in providing a certified System Operator. Customer shall provide time for the System Administrator to diagnose, troubleshoot, and replace components as necessary.

2. EXCLUSIONS.

2.1 If problems or defects with the System or any of its components result from a Force Majeure Event (as defined in the Master Terms) or Customer misuse or abuse, Blackboard shall charge Customer, and Customer shall pay Blackboard, its then current hourly repair rates and any related charges then in effect for maintenance services.

2.2 Blackboard shall only provide on-site maintenance when and in accordance with its standard procedures. Prior to Blackboard providing any on-site maintenance, Blackboard shall provide Customer with, and Customer shall perform the appropriate test and verification analysis on the applicable Software/Equipment in accordance with routines, documentation and instructions provided by Blackboard. Customer shall promptly inform Blackboard of the results of these tests. Customer shall provide Blackboard with troubleshooting assistance.

2.3 Any on-site maintenance service not covered by the applicable maintenance and support services schedules provided by Blackboard shall be subject to a minimum charge of eight (8) hours. Such items excluded from maintenance and support services include (but are not limited to):

- (a) The resolution of any problems due to inspection, service, relocation, tampering, configuration changes, installation of additional feature, functions, or software not provided, authorized or installed by Blackboard
- (b) Software or Equipment sold but not manufactured by Blackboard, and not covered by this Schedule, including, but not limited to Hewlett Packard, Datascard, Windows®, etc.
- (c) The resolution of any problems due to or caused by knowing disregard for System Administration procedures as outlined in the current version of the Blackboard System Administration Guide or other relevant documentation.
- (d) Computer Viruses and any damage caused by viruses.

3. CUSTOMER SUPPORT

3.1 Coverage Hours. Blackboard shall provide Customer with customer support services available 6:00 a.m. to 6:00 p.m. MST time, five (5) days a week, Monday through Friday, excluding US Federal and Arizona State holidays ("Coverage Hours"). Outside of the Coverage Hours, Blackboard shall make available to Customer access to on-call personnel for support services, deemed by Blackboard to be an emergency.

3.2 Limits. Customer support is limited to questions on product configuration, usage and notification of defects and is available by calling or notifying Blackboard. Upon receipt of a call or notification by Blackboard approved methods, Blackboard will determine whether an error is related to or directly caused by the Software or Equipment. If so, Blackboard will (a) create an error report, (b) assign a Severity Code and (c) attempt to resolve the error in accordance with the procedures below.

3.3 Error Resolution.

(a) Severity Code 1. Severity Code 1 implies that the System is not functioning. Some examples of Severity Code 1 System Errors are as follows: (i) System is down and will not restart; (ii) System is generating a data corruption condition. Blackboard will use its commercially reasonable efforts to resolve Severity Code 1 System Error reports on a twenty-four (24) hour basis. When a Severity Code 1 System Error is reported, Blackboard will assign resources necessary to correct the System Error. If access to the System is required, Customer will provide a contact available to Blackboard and access to Customer's system and other software for the duration of the error correction procedure.

(b) Severity Code 2. Severity Code 2 implies that the System is running but the Customer is unable to use major parts of the System. Some examples of Severity Code 2 System Errors are as follows: (i) Intermittent System Error and (ii) major functional component is

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unavailable. Severity Code 1 System Errors will take priority over Severity Code 2 System Errors. Blackboard will assign appropriate technical resources to Severity Code 2 System Errors as long as there are no Severity Code 1 System Errors awaiting resolutions.

(c) Severity Code 3. Severity Code 3 Implies that the System is operating but there is a non-critical System Error. Severity Code 3 System Errors may be fixed in the next scheduled Upgrade or Update or made available on Blackboard's Web site. Blackboard will research System Errors in the next scheduled Upgrade or Update or make corrections available to Customer on Blackboard's Web site. Blackboard may correct Severity Code 3 System Errors after Severity Code 1 and Severity Code 2 System Errors. Blackboard may correct Severity Code 3 System Errors in the next scheduled Upgrade or Update or make corrections available to Customer on Blackboard's Web site.

(d) Severity Code 4. Severity Code 4 Implies that the System is operating but the Customer is requesting additional functionality. Blackboard may, at its sole discretion, incorporate in a future Upgrade or Update or make available to Customer on Blackboard's Web site.

(e) Severity Code 5. Severity Code 5 Implies that the System is operating but the customer is in need of instructional assistance. Severity Code 1, 2, and 3 System Errors will take priority over Severity Code 5 calls. Blackboard will assign appropriate technical resources to Severity Code 1, 2, or 3 System Error reports awaiting resolution.

Severity Code 5 calls as long as there are no Severity Code 1, 2, or 3 System Error reports awaiting resolution.
3.4 Purchase of Additional Support and Maintenance Services. In addition to the basic maintenance and support services set forth herein, Customer may purchase additional Silver level Equipment or Platinum or Gold level Software maintenance and support services in accordance with the applicable terms and conditions. Refer to attached Exhibits.

NETWORK PROCESSOR COVERAGE (UNIX EDITION ONLY)

4.1 Subject to the definition of Coverage Hours, Network Processor/Server equipment will be handled as high priority since it is the most critical to System operation.

4.2 Upon Customer's notification and Blackboard's acknowledgement that the Network Processor/Server or a component thereof, is defective, Blackboard will promptly ship to Customer a temporary replacement component or Network Processor/Server. Blackboard will use commercially reasonable efforts to ensure that such temporary replacement component or Network Processor/Server is delivered within forty-eight (48) hours of Blackboard's acknowledgment of problem. Customer shall return to Blackboard the defective component or Network Processor/Server within five (5) business days of receipt of temporary replacement component or Network Processor/Server.

4.3 Upon Customer's receipt of the temporary replacement component or Network Processor/Server, telephone support will be provided to Customer to ensure the System is operative.

4.4 At Blackboard's sole discretion, the defective component or Network Processor/Server will either be repaired or replaced. Blackboard is under no obligation to return the original component or Network Processor/Server to Customer. If the original component or Network Processor/Server is returned to Customer, then Customer shall ship the temporary replacement component or Network Processor/Server to Blackboard within five (5) business days after receipt of the original repaired component.

4.5 If the Network Processor/Server is inoperative and all reader terminals are in an "offline" mode, Blackboard will dispatch a technician to Customer's site, who shall arrive no later than the next day of Coverage Hour, provided, however, that Blackboard determines, in its sole discretion, that either the replacement of the defective part cannot be accomplished by Customer, or that it cannot be easily ascertained which component is defective. Customer will pay Blackboard the then-current rates for on-site services and reimburse Blackboard for applicable travel and living expenses incurred by Blackboard, provided, Customer has not purchased Blackboard Transaction System Software Platinum Coverage™ or Blackboard Transaction System Software Gold Coverage™ in accordance with the applicable Exhibit.

5. EQUIPMENT MAINTENANCE AND SUPPORT SERVICES

5.1 Upon payment of the applicable annual Equipment maintenance fees, Blackboard will provide the following:

(I.) Reader and peripheral Equipment to the System may be supported by on-call and telephone support to assist Customer in diagnosing Equipment problems during Coverage Hours.

(II.) Reader and peripheral Equipment manufactured by Blackboard is supported by way of depot repair. At Blackboard's sole discretion, such Equipment shall be repaired or replaced. Customer shall request a Return Material Authorization (RMA) number from Blackboard and return such reader and/or peripheral Equipment to the factory for repair. Repaired or replaced Equipment will be returned to the customer within 5 business days using standard shipping methods outlined in Master Terms.

(III.) Reader and peripheral equipment manufactured by a third party vendor is supported by way of depot repair. At Blackboard's sole discretion, such Equipment shall be repaired or replaced. Customer shall request a Return Material Authorization (RMA) number from Blackboard and return such reader and/or peripheral Equipment to the factory for repair. Repaired or replaced Equipment will be returned to the customer within 10 business days using standard shipping methods outlined in Master Terms.

(IV.) Equipment including, but not limited to, NCR, Dell, Compaq, and Gateway are supported by onsite third party repair.

6. TIME AND MATERIALS SERVICES

6.1 At Blackboard's sole discretion, repair or maintenance and support services may be made available to Customer at Blackboard's then current fees and applicable hourly minimums for Software and/or Equipment which Customer has not paid the applicable maintenance and support fees or Blackboard has excluded in accordance with this Schedule.

6.2 Blackboard will provide Customer with an estimate for the provision of such services. Blackboard, at its sole discretion, will require either a Purchase Order or written approval for the estimated fees prior to providing any repairs or maintenance and support services in accordance with this section.

7. FEES

7.1 Software basic maintenance and support services are covered under the Customer's annual license fee for the Software. To the extent Customer has purchased Gold or Platinum level Software maintenance and support services, Customer shall pay annually for such additional fees related to such services. Customer shall pay an annual Equipment maintenance and support fee (the "Annual Equipment Maintenance and Support Fee") to Blackboard for the services provided hereunder related to the Equipment. Payments shall be sent to Blackboard, Inc. Box 200188 Pittsburgh, PA 15251-0188. To the extent Customer has purchased Silver level Equipment maintenance and support services, Customer shall pay annually for such additional fees related to such services. If Customer fails to pay the Annual Equipment Maintenance and Support Fee in accordance with this Schedule and the Master Terms, Blackboard may suspend any and all Equipment maintenance and support to Customer. Blackboard reserves the right to modify the Annual Maintenance and Support Fee for each Renewal Term.

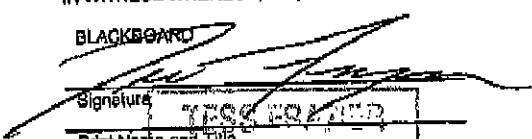
VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

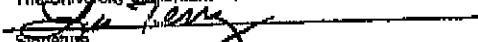
8. TERM AND TERMINATION

8.1 **Term.** This Schedule shall commence July 1, 2002, and, unless suspended as provided for in Section 5, shall continue for a period of one (1) year. ("Initial Term"). Thereafter, this Schedule will renew automatically for successive one (1) year terms or as mutually agreed (each a "Renewal Term"), provided that Customer remits the applicable Maintenance and Support Fee within thirty (30) days of receipt of an invoice from Blackboard.

8.2 **Termination.** This Schedule may be terminated in accordance with the termination provisions of the Agreement.

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

BLACKBOARD

Signature: Lu Terry
Print Name and Title: Purchasing Agent
Date: September 23, 2002

CUSTOMER
The University of Montana - Missoula

Signature: Lu Terry
Print Name and Title: Purchasing Agent
Date: September 23, 2002

VOID IF EXECUTED AFTER SEPTEMBER 30, 2002 The University of Montana - Missoula

EXHIBIT G1.2
BLACKBOARD TRANSACTION SYSTEM SOFTWARE GOLD COVERAGE™

1. MAINTENANCE

1.1 Basic Obligations. Upon payment of applicable fees, Blackboard shall provide Customer with maintenance and support services in accordance with the terms and conditions of Schedule C and the Master Terms and its then-current maintenance and support policy.

In addition to the Basic coverage, the following items are included in the Gold Coverage:

1.2 Network Reader Coverage
Blackboard, with the assistance of Customer, will diagnose a reader problem and determine if the problem is related to Equipment or communication protocols. If the problem is with Equipment, the current maintenance options will prevail. If the problem is with the communication protocols, the Customer will be advised on the steps to take for resolution. It is up to the Customer to solve all on campus communication problems. Blackboard is not responsible for campus communication problems.

1.3 Network Processor Coverage (UNIX EDITION ONLY)

(i.) Subject to the definition of Coverage Hours, Network Processor/Server equipment will be handled as high priority since it is the most critical to System operation.

(ii.) Upon Customer's notification and Blackboard's acknowledgement that the Network Processor/Server or a component thereof, is defective, Blackboard will promptly ship to Customer a temporary replacement component or Network Processor/Server. Blackboard will use commercially reasonable efforts to ensure that such temporary replacement component or Network Processor/Server is delivered within forty-eight (48) hours of Blackboard's acknowledgement of problem. Customer shall return to Blackboard the defective component or Network Processor/Server within five (5) business days of receipt of temporary replacement component or Network Processor/Server.

(iii.) Upon Customer's receipt of the temporary replacement component or Network Processor/Server, telephone support will be provided to Customer to ensure the System is operative.

(iv.) At Blackboard's sole discretion, the defective component or Network Processor/Server will either be repaired or replaced. Blackboard is under no obligation to return the original component or Network Processor/Server to Customer. If the original component or Network Processor/Server is returned to Customer, then Customer shall ship the temporary replacement component or Network Processor/Server to Blackboard within five (5) business days after receipt of the original repaired component.

(v.) If the Network Processor/Server is inoperative and all reader terminals are in an "offline" mode, Blackboard will dispatch a technician to Customer's site, who shall arrive no later than the next day of Coverage Hour, provided, however, that Blackboard determines, in its sole discretion, that either the replacement of the defective part cannot be accomplished by Customer, or that it cannot be easily ascertained which component is defective.

1.4 Emergency Onsite Assistance
In the event of a Network Processor failure (UNIX Edition) or Server failure (Windows Edition), Customer may choose to have a Blackboard employee travel to customer site to assist with Network Processor replacement or Server restoration. Travel and living expenses shall be at the Customer's expense.

1.5 Application Restoration

In the event of a host hardware failure, Blackboard will perform the following services remotely:

(i.) Blackboard will install both Application Software and Operating System software from backup media.

(ii.) Blackboard will configure partitions (if necessary)

(iii.) Blackboard will analyze and resolve database corruption (if necessary)

(iv.) Blackboard will start the application processes

(v.) Blackboard will confirm readers are online and processing transactions

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EXHIBIT C1.3

LIST OF EQUIPMENT
JULY 1, 2002 THROUGH JUNE 30, 2003

Description	Quantity	T&M	Basic	Final Cost
HP700/60 CRT Terminal Monochrome	2	x		\$ -
Line Converter IP/485	10	x		\$ -
Line Converter, 232/485	43	x		\$ -
Copy Machine Reader w Keypad	1	x		\$ -
Copy Machine Reader w/Keypad	1	x		\$ -
High Energy Programmable	1	x		\$ -
Bar Code Scanner - Hand Held Gun	3	x		\$ -
Electronic Cash Drawer	49	x		\$ -
Patron Display	18	x		\$ -
Patron Display II	11	x		\$ -
Receipt Journal Printer - 4 Ipa	17	x		\$ -
Receipt Journal Slip Validation Printer-4 Ipa	5	x		\$ -
Electronic Scale	4	x		\$ -
Activity Reader	8	x		\$ -
Activity Reader	5	x		\$ -
Time Management II Reader	9	x		\$ -
Security Monitor Reader, Wall	9	x		\$ -
Security Monitor II Reader, Wall	1	x		\$ -
MiniWedge POS Reader	10	x		\$ -
MiniWedge Pos Reader w/Bar Code Support	1	x		\$ -
MidiWedge PDS Reader	3	x		\$ -
MidiWedge W/Ecp. Memory and Dual Cash Drwr	14	x		\$ -
MaxiWedge POS Reader	12	x		\$ -
MaxiWedge II Pos Reader	5	x		\$ -
MaxiWedge Pos Reader w/Dual Cash Drawer Support	2	x		\$ -
Maxi II W/Ecp. Memory/Dual Cash Drwr	13	x		\$ -
4 Meg I/O Nf Circuit Board Upgrade	1		x	\$ -
Communication Processor 8 Port	4		x	\$ -
ISA Network Interface Card Kit	2		x	\$ -
PCI Network Interface Card KIT	1		x	\$ -
HP JetDirect Print Server & Power Cable	1		x	\$ -
56K Network Processor 16 Mb/8 Port	1		x	\$ -
32 MByte Memory Expansion	2		x	\$ -
Security Multiplexer - 8 I/O	38	x		\$ -
Sentry Security Reader w/HS4	58	x		\$ -
Sentry Security Rdr w/HS4 & PIN	16	x		\$ -
Security Reader w/HS4,w/Aux. Support	27	x		\$ -
Sentry Security Reader w/ High Security, Aux	9	x		\$ -
Sentry Security Reader w/HS16 & Aux. Support	4	x		\$ -
Long Range Proximity Card Recognition Device	2	x		\$ -
Medium-Range Proximity Card Recognition Device	9	x		\$ -
UPS 1.1KVA 30 Minutes	1	x		\$ -
Vending Reader Swipe Multi-Drop Bus	5	x		\$ -
Value Transfer Station	1	x		\$ -
Grand Total	440			\$ -0-

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**SCHEDULE D
CARDS AND SUPPLIES PURCHASE**

This CARDS AND SUPPLIES SCHEDULE ("Schedule") shall be governed by the terms and conditions of the Blackboard Master Terms ("Master Terms") dated as of the 1st day of July, 2002 between Blackboard and Customer. Terms used in this Schedule that are not defined below shall have the meaning set forth in the Master Terms.

1. CONVEYANCE OF CARDS AND SUPPLIES.
During the Term of this Agreement, Customer shall purchase, acquire, and accept from Blackboard, and Blackboard shall sell, transfer and convey all of Blackboard's right, title and interest in and to the ID Cards or Card Stock ("Cards") and Supplies listed in the Initial Purchase Orders that are the subject of this purchase and any Purchase Orders which may be provided subsequent to the Initial Purchase.

2. CONSIDERATION FOR CARDS AND SUPPLIES.

2.1 Fees. Customer shall pay to Blackboard the amount set forth in the Purchase Order for the Cards or Supplies in accordance with the payment provisions of the Agreement. Payments shall be sent to Blackboard, Inc. Box 200188 Pittsburgh, PA 15251-0188. The standard quantity variation on custom-printed cards is +/- 10 percent. Blackboard will invoice for the quantity shipped. In the event additional services are requested by Customer, including but not limited to, artwork, design, typesetting and proof charges, fees for these additional services will be in accordance with Blackboard's then current rates such additional services.

2.2 Changes in Fees. Blackboard reserves the right to change its fees during the Term. Any increase in fees shall not affect any Purchase Orders accepted by Blackboard prior to the implementation of such new prices. All Purchase Orders placed by Customer after implementation of any fee increase but before the date such fee increase is effective, shall be, by the Purchase Order's terms, for delivery no later than ninety (90) days after the date such price increase is effective, unless otherwise agreed by Blackboard. Any decrease in fees shall be effective immediately upon publication by Blackboard and shall be applicable to all outstanding Purchase Orders accepted by Blackboard.

3. ORDERING; DELIVERY

3.1 Order Process. Customer must request Cards or Supplies by submitting to Blackboard a (1) Purchase Order or (2) a valid quote accompanied by check or credit card information. No Purchase Order will be binding until accepted by Blackboard in writing, and Blackboard will have no liability to Customer with respect to any Purchase Orders that are not accepted. No partial shipment of a Purchase Order shall constitute the acceptance of the entire Purchase Order. All Purchase Orders issued by Customer to Blackboard shall be governed in all respects by the terms and conditions of this Agreement. Except for non-conflicting administrative terms as provided below, any additional or preprinted terms or conditions on a Purchase Order shall be null, void, and of no effect unless Blackboard has expressly agreed in writing, in advance, to terms and conditions inconsistent with or not otherwise addressed in the Master Terms or any of the Schedules.

3.2 Cancellation. Customer may not cancel a Purchase Order executed concurrently with the execution of this Agreement. However, Customer may cancel any subsequent Purchase Order on written notice to Blackboard at least forty-five (45) days prior to the estimated shipment date; provided that Customer first pays Blackboard a cancellation charge, as liquidated damages and not a penalty, equaling fifteen percent (15%) of the total price of the affected Purchase Order.

3.3 Shipment and Delivery Terms. Shipping dates will be established by Blackboard upon acceptance of Purchase Orders. Shipping dates will be assigned as close as practicable to the Customer's requested dates based on Blackboard's then-current lead time. Blackboard shall not be liable for damage or penalty for delay in delivery or failure to give notice of any delay. Packing slips will be included in all shipments and an order number or agreement number will be shown on all acknowledgments, packing slips and invoices. Blackboard shall make deliveries under this Schedule in accordance with its standard delivery procedures. All freight, insurance, and other shipping expenses, as well as expenses for any special packing requested by Customer shall be prepaid by Blackboard and subsequently invoiced to Customer. Should Customer desire to expedite shipment of Cards or Supplies, Customer may be charged an additional 10 (ten) percent of the total purchase price for such expedited shipment.

3.4 Title and Risk of Loss. Title to any product that Blackboard sells outright to Customer hereunder shall vest in Customer immediately upon receipt FOB Destination. Risk of loss or damage to any product shall pass to Customer upon passage of title or upon receipt if title does not pass to Customer.

4. LIMITED WARRANTY.

Blackboard represents and warrants that the Cards and Supplies will be substantially free from manufacturer defects and if applicable, substantially conform to relevant ABA and ISO card standards in effect at the time of shipment to Customer, provided Blackboard has received all amounts owed under the Master Terms and the Schedule(s) and Customer is not in default of any part of the Agreement. Blackboard's sole obligation is limited to replacement or credit to Customer's account for the defective Cards or Supplies, at Blackboard's discretion, provided that Customer notifies Blackboard of the deficiency within thirty (30) days of receipt of Cards or Supplies. THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES BY BLACKBOARD, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

5. TERM.

This Schedule shall commence on the Available Date and shall continue until the Master Terms is terminated.

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

BLACKBOARD

Signature

LESS FRAZER

Print Name and Title

TH DIRECTOR

Date:

9/23/02

CUSTOMER

The University of Montana - Missoula

Signature

Lil Terry, Purchasing Agent

Print Name and Title

September 23, 2002

Date:

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula



**BLACKBOARD LICENSE AND SERVICES AGREEMENT
COVER PAGE**

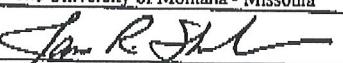
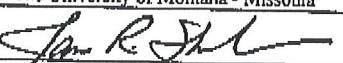
The attached documents describe the relationship between Blackboard and the Customer identified below. The documents attached to this cover page will consist of the Master Terms, which describe and set forth the general legal terms governing the relationship, and one (1) or more Schedules describing 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 Schedules, and Statement of Work, and the Professional Services Agreement and the Master Terms dated September 23, 2002, and all Schedules that are attached to such Master Terms and are separately executed by the Parties. This Agreement, including the attached Schedules and Statement of Work, will become effective when this cover page is executed by authorized representatives of both Parties.

CUSTOMER INFORMATION:

Name/Company:	The University of Montana - Missoula and on behalf of The University of Montana - Helena and The University of Montana - Western	Principal Contact Person:	Ray Ford
Address:	32 Campus Way Missoula MT 59812 Information Technology Office, Davidson Honors College Lower Level, Missoula, Montana 59812	Phone:	(406) 243-2964
		Fax:	(406) 243-2797
		Billing Contact:	Ray Ford
		Title:	Assoc. Vice President
		Address:	32 Campus Way Missoula MT 59812
		Email Address:	ford@cs.umt.edu Ray.Ford@umontana.edu
Initial Term of Agreement:	3 years	Phone:	(406) 243-2964
		Fax:	(406) 243-2797

The Parties have caused their duly authorized representatives to execute this Agreement as of the dates set forth below.

CUSTOMER:	The University of Montana - Missoula	BLACKBOARD	
By (Signature):		By (Signature):	
Name (Printed):	James R. Strand	Name (Printed):	Teresa Frazier
Title:	Associate Provost	Title:	Senior Director, Contracts
Date:	12/31/03	Date:	12-31-03

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

University of Montana - Missoula Pricing Summary

	Level of License and Support	Initial Term Fees (USD) (Year 1)	Initial Term Fees (USD) (Year 2)	Initial Term Fees (USD) (Year 3)
Blackboard Learning System™ License	Blackboard Learning System	\$470,500	\$470,500	\$470,500
One Time Price Reduction for Year 1 of Initial Term		\$<7,500>	\$0	\$0
Blackboard Virtual Installation(s)		\$37,500	\$37,500	\$37,500
One Time Price Reduction Virtual Installations		\$<307,0500>	\$<307,0500>	\$<307,5000>
Blackboard Learning Solutions	2 days	\$5,000	N/A	N/A
3rd party hardware		\$29,990	N/A	N/A
Total Fees Due:		\$82,49074,990	\$17,500	\$47,500

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

SOFTWARE SCHEDULE LS-1
BLACKBOARD LEARNING SYSTEM™

This Blackboard Learning System Software™ ("Schedule") is an addendum to the Blackboard License And Services Agreement between Blackboard and The University of Montana-Missoula ("Customer"), including the Master Terms dated September 23, 2002, and other Schedules have the meaning set forth in the Master Terms.

SITE: SCHEDULE OF FEES

	Quantity	Initial Term Annual Fees (USD) Year 1	Initial Term Annual Fees (USD) Year 23	Initial Term Annual Fees (USD) Year 3
Blackboard Learning System Annual License		\$470,500	\$470,500	\$470,500
One Time Price Reduction for Year 1 of Initial Term		\$<7,500>	\$0	\$0
Virtual Installations	2	\$37,500	\$37,500	\$37,500
One Time Price Reduction for Virtual Installations		\$<307,0500>	\$<307,0500>	\$<307,0500>
Hardware Purchase		\$29,990	N/A	N/A
Total Fees Due:		\$6977,4990	\$4755,050047,500	\$47,50047,500,0500
Designated Server Site (Physical Location of the Software):	Database Version:	Operating System:	Hardware Model:	
University of Montana-Missoula Computing & Information Services 33 Campus Way-Missoula, MT 59812 Liberal Arts Room 144 Missoula, Montana 59812	Microsoft SQL Server-Oracle	Microsoft Windows 2000 Solaris	Sun Solaris Server	
FTE: Learning System at The University of Montana Missoula -12,500 Virtual Installs of the Learning System at The University of Montana Helena and Western- 1,600 (800 each Virtual Install)				

1. ADDITIONAL DEFINITIONS

1.1 "Authorized End User" means any individual who is a student resident on Customer's campus or is accessing the Software remotely and is enrolled or registered in a degree- or certificate-granting program of Customer (as further defined in Exhibit 1), prospective researcher of Customer or a Customer employee (solely to the extent any such employee uses the Software for Customer's internal training purposes) means any individual who is a student resident on Customer's campus(es) or is accessing the Software remotely while enrolled or registered in a course of instruction, whether or not associated with a degree- or certificate-granting program that is regularly offered by the Customer through Customer's established academic programs, Continuing Education, or any other such established program. "Authorized End User" also means any individual who is a prospective student, alumnus, consortium student who is enrolled in any regularly offered course of instruction of the Customer employee, trustee or collaborating researcher of Customer, or a Customer employee (solely to the extent any such employee uses the Software for Customer's internal training purposes).

1.2 "Virtual Installation" or "Virtual Installations" mean separate environments within the Software installation, using the same software application files and maintained on the same hardware. The Virtual Installations shall be used by The University of Montana-Helena and The University of Montana-Western.

A "full" virtual installation will appear to a non-administrative user like a full Blackboard system that is wholly devoted to the user's use population.

- Multiple fully independent user populations can share a Blackboard system, with each population having its own full "virtual" installation.
- All fully independent populations will run on the same hardware and will be centrally managed (to a limited extent).
- A "branding-only" virtual installation will have distinct branding but share all other data (users, course, etc.) with another virtual installation.
- The hostname that user or client connects to will determine which virtual installation the user is entering.

1.3 "Corrections" means a change (e.g. fixes, workarounds and other modifications) made by or for Blackboard which corrects Software Errors in the Software, provided in temporary form such as a patch, and later issued in the permanent form of an Update.

1.4 "Designated Server Site" means the physical location where the Software will be installed, as identified in the table above.

1.5 "Software" means, for purposes of this Schedule only, the version(s) of the Blackboard proprietary software identified in the table above, including Virtual Installations.

1.6 "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 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.

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

- 1.7 **Third-Party Software** means the software manufactured by third parties that has been incorporated by Blackboard into the Software and/or provide additional functionality and that have been commercially released with a version number that differs from that of the prior version
 1.8 **Updates** means the object code versions of the Software that have been developed by Blackboard to correct any Software Error in the number to the right of the decimal point (e.g., 2.0 vs. 2.1) and that are not marketed as a separate product or module.
 1.9 **Upgrades** means the object code versions of the Software that have been customized, enhanced, or otherwise modified by or on behalf of Blackboard, acting in its sole discretion, to include additional functionality and that have been released with a version number that differs from that of the prior version in the number to the left of the decimal point (e.g., 3.0 vs. 2.0) and that are not marketed as a separate product or module.

2. LICENSE

- 2.1 **Grant of License**. Subject to the terms and conditions of this Schedule and the Master Terms, Blackboard grants Customer a limited, non-exclusive, non-transferable non-sublicensable license (i) to install and use one (1) production copy and one unsupported Test copy of the Software on a single computer server 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; and (ii) to install and use one (1) additional copy of the Software on a single computer server at Customer's Designated Server Site, solely in the form of machine-readable, executable, object code or bytecode, as applicable, and solely for non-production, testing purposes. Customer acknowledges and understands that, in the event it wishes to use the Software for any purposes other than 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 for any purposes beyond the scope of the license granted in Section 2.1. Without limiting the foregoing, except as expressly contemplated in this Agreement or as otherwise agreed in writing between the Parties, Customer shall not (i) copy or duplicate the Software, provided that, notwithstanding the foregoing, Customer shall be permitted to create 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, Section 2.1; or (vi) use the Software 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. Customer will not assign, sell, lease or otherwise transfer or convey, or pledge as security or otherwise encumber, Customer's rights under the license granted in this Schedule in all respects, including, without limitation, the restrictions set forth in this Section 2.2 and the terms of use set forth in Section 2.6.

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, 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.

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 **Terms of Use**. The use of the Software by Customer's Authorized End Users is governed by additional terms and conditions ("Terms of Use") made available within the Software. Customer shall not obscure, remove, or alter the Terms of Use. Customer may, at its sole discretion, replace the Terms of Use with its own terms and conditions applicable to its end users, provided however, that such terms and conditions are no less protective of Blackboard than the Terms of Use.

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

2.8 **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.

2.9 **Auto Reporting**. Customer shall maintain, and not disable, the Auto Report option of the Software, which Blackboard acknowledges only reports aggregate usage information, and no individually identifiable user information, to Blackboard.

2.10 **Expansion of Licensed Use**. Blackboard Learning System Software is priced annually based upon Blackboard User Bands. Blackboard User Bands are comprised of the FTE (as defined below) of the 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 as follows:

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

LEARNING SYSTEM:

Blackboard Band

Current Pricing	
Fewer than 2000	\$25,000 annually
2,000 to 3,999	\$32,500 annually
4,000 to 7,999	\$40,000 annually
8,000 to 14,999	\$47,500 annually
15,000 to 24,999	\$55,000 annually
25,000 to 49,999	\$62,500 annually

ADDITIONAL bands of 25,000 will be priced at \$25,000 annually

For the purposes of this agreement, "FTE" or "Full Time Equivalent" is determined using the following formula:

- a) # of Students taking 12 or more credit hours
- b) # of Students taking less than 12 credit hours $\times 0.5$ ($b \times 0.5$)
- c) # of Students participating in extension programs
- d) # of Alumni using system $\times 0.25$ ($d \times 0.25$)
- e) # of Other (such as faculty and staff)

Total FTE Count equals the sum of a + b + c + d + e.

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

3. DELIVERY

Unless otherwise agreed by the Parties, as soon as commercially practicable after the Schedule Effective Date, Blackboard will make available a copy of the Software for downloading from the Internet by Customer for purposes of installation by Customer, 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-sixty (630) days from the date of such notice, and Customer will have no right to download the Software after this thirty-sixty (630)-day period. Upon Customer's request, Blackboard will deliver to Customer a CD containing a backup copy of the Software.

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 above or otherwise required in this Schedule, which fees, unless otherwise specified herein, 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 following the beginning of 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: TERMINATION

5.1 This Schedule shall become effective (i) when executed by authorized representatives of both Parties (the date upon which Blackboard executes this Schedule, the "Schedule Effective Date"); or (ii) the Effective Date of the Agreement, whichever later occurs, and shall continue in successive one (1)-year periods (each, a "Renewal Term") for no more than two (2) Renewal Terms, unless either Party provides notice of its desire not to renew not less 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.

5.2 In the event Customer terminates this Schedule pursuant to the Agreement, as a result of a material default by Blackboard, Blackboard shall refund the unused portion of the License Fees paid in accordance with this Schedule for the then-current Term.

6. LIMITED SOFTWARE WARRANTY

Blackboard warrants, solely for the benefit of Customer, that any Software licensed under this Schedule which is manufactured by Blackboard will substantially conform to applicable Documentation for a period of ninety (90) days after the relevant Available Date, provided that (i) Blackboard has received all amounts owed under this Agreement; (ii) Customer is not in material breach of this Agreement; (iii) Customer has installed any Corrections, Upgrades and Updates made available to Customer; and (iv) Customer has notified Blackboard in writing of any failure of the Software to conform to the foregoing warranty within the warranty period. **CUSTOMER ACKNOWLEDGES AND AGREES THAT 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

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

7.1 Telephone Product Support. Customer is eligible to receive Product Support (as defined below) in English from Blackboard. Customer may designate up to two of its personnel for purposes of receiving Product Support under this Schedule ("Technical Contacts"), and Customer may designate substitute personnel to be Technical Contacts by providing written notice to Blackboard (provided that not more than two (2) persons may be designated as Technical Contacts at any particular time). Provided that Customer remains in compliance with Blackboard's minimum configuration requirements, Customer's Technical Contacts may contact Blackboard, via the web or telephone at the telephone number provided by Blackboard from time to time, for purposes of receiving Product Support. For purposes of this Schedule, the term "Product Support" means the provision of advice and responses by Blackboard's personnel to inquiries from Customer's then-current Technical Contacts related to installation, configuration and use of the Software. Product Support will be made available in English only twenty-four (24) hours a day, seven (7) days a week, 365 days a year, excluding the US Federal public holidays of New Years Day, Martin Luther King Day, Presidents' Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas. Unless otherwise specified by Blackboard, Product Support is available by calling 1-888-788-5264. In addition to the foregoing support services, Blackboard may make representatives available for onsite support, at its sole discretion, at Blackboard's then prevailing rates.

7.2 Installation Assistance. Notwithstanding Section 7.1 of this Schedule, Customer is responsible for all installation of the Software and any Upgrades provided pursuant to this Agreement. If Customer desires Blackboard to provide assistance to Customer related to the installation of the Software and/or Upgrades, Customer acknowledges that it will be required to enter into a separate Blackboard Professional Services Agreement.

7.3 Initial Technical Contacts. Customer's initial Technical Contacts are as follows:

Name:	Tony Ferrini/Diane Oman
Title:	Information Systems Support Specialist, Computing & Information Services Technology Manager
E-mail:	tony.ferrini@umontana.edu
Telephone number:	<mailto:tony.ferrini@umontana.edu> 406-243-6277; phone 406-243-2459
Name:	
Title:	
E-mail:	
Telephone number:	

7.4 Support Limitations. Blackboard shall provide Product Support only with respect to the then-current generally available version of the Software and the two (2) most recent previously issued Updates of the Software. Customer acknowledges that Blackboard has no obligation under this Schedule to provide Product Support or other support services with respect to (i) any Third-Party Software, including, without limitation, any Third-Party Software provided under this Agreement; (ii) any Software Error or problems relating to the Software arising from (x) use of the Software other than strictly according to the terms of this Agreement, including, without limitation, human error; (y) modification of the software by Customer or any third party; or (z) any combination or integration of the Software with hardware, software and/or technology not provided by Blackboard, or problems arising from Customer's host or applications software, Customer's hardware and cabling power or environmental conditions. Support is not available from Blackboard in languages other than English.

7.5 Error Resolution. In the event that Blackboard determines, in its good faith discretion, that any request for Product Support by Customer's then-current Technical Contacts arises from a verifiable Software Error, Blackboard will classify such Software Error according to the appropriate Severity Code, as determined by reference to the categories listed in the table below, and will exercise commercially reasonable efforts to correct the relevant Software Error according to the relevant Error Resolution Protocol set forth for each such category. Notwithstanding the foregoing, Customer acknowledges that no warranty is made regarding any such Error Response Protocol with respect to all or any Software Errors. Customer further acknowledges that Severity Code 1, 2, and 3 Software Errors will take priority over requests for Product Support not arising from Software Errors.

Severity Code	Description/Examples	Response Protocol
1	Software is not functioning. Some examples of Severity Code 1 Software Errors are as follows: (i) Software is down and will not restart; (ii) Software is not able to communicate with external systems; and (iii) Software is generating a data corruption condition.	Blackboard will use its commercially reasonable efforts to resolve Severity Code 1 Software Error reports on a twenty-four (24) hour basis.* When a Severity Code 1 Software Error is reported, Blackboard will assign resources necessary to work to correct the Software Error. If access to the Software is required, Customer will provide a contact available to Blackboard and access to Customer's system and other software for the duration of the error correction procedures.
2	Software is running but that Customer is unable to use major portions of the Software. Some examples of Severity Code 2 Software Errors are as follows: (i) intermittent Software Error and (ii) major functional component is unavailable.	Severity Code 1 Software Errors will take priority over Severity Code 2 Software Errors. Blackboard will assign appropriate technical resources to Severity Code 2 Software Errors as long as there are no Severity Code 1 Software Errors awaiting resolutions.
3	Software is operating close to normal but there is a non-critical Software Error.	Severity Code 3 Software Errors may be fixed in the next scheduled Upgrade or Update or made available on Blackboard's Web site. Blackboard will research Severity Code 3 Software Errors after Severity Code 1 and Severity Code 2 Software Errors. Blackboard may correct

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

		Severity Code 3 Software Errors in the next scheduled Upgrade or Update or make corrections available to Customer on Blackboard's Web site.
* Response time goals are to be measured after verification and replication by Blackboard of the relevant Software Error.		

7.6 Maintenance. From time to time Blackboard may, in its discretion, develop Corrections, Updates or Upgrades to the Software. Provided that Customer has paid to Blackboard all fees and other amounts due and payable under this Agreement, Blackboard will, during the period while this Schedule remains in effect, make available to Customer such Corrections, Updates and/or Upgrades, if and when developed, at no additional cost. Any such Corrections, Updates and/or Upgrades shall, if and when provided or made available, be deemed to constitute part of the Software and shall be subject to all terms and provisions set forth in this Agreement, otherwise applicable to the Software, including, without limitation, terms and provisions related to licenses, use restrictions and ownership of the Software.

7.7 Additional Services. Any time or expense incurred by Blackboard in diagnosing or fixing problems that are not caused by the Software or are not covered by the support services are billable to Customer at Blackboard's then-existing services rates, with a one-hour minimum charge per call. If Customer desires such additional services, it must execute a copy of Blackboard's Professional Services Agreement for the services.

8. HARDWARE

In addition to the Software purchased herein, Customer is purchasing Sun hardware products. Blackboard does not provide support for the hardware products and does not warrant the hardware products. Customer ~~must~~may contact the hardware manufacturer directly for any warranty or support issues related to the hardware. Blackboard will provide installation services at a cost of \$1,000. Customer shall receive the Sun hardware purchased herein with one copy of the Software installed.

The Parties agree to the above terms and have executed this Schedule as of the date(s) set forth below.

BLACKBOARD

Signature

Teresa Frazier

Print Name and Title

Senior Director, Contracts

Date:

12-31-03

CUSTOMER: The University of Montana - Missoula

Signature

James R. Staub, Assoc. Provost

Print Name and Title

Date:

12/31/03

VOID IF EXECUTED AFTER DECEMBER 31, 2003

The University of Montana - Missoula

BLACKBOARD LEARNING SOLUTIONS SCHEDULE LS -2

This Blackboard Learning Solutions™ ("Schedule") is an addendum to the Blackboard License And Services Agreement between Blackboard and The University of Montana-Missoula ("Customer"), including the Master Terms dated September 23, 2002, 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.

SCHEDULE OF FEES

Blackboard Learning Solutions	Number of Days	Cost (USD)
Total Fees Due:	2	\$5,000
		\$5,000

1. BLACKBOARD LEARNING SOLUTIONS

1.1 Blackboard, upon request of Customer, shall provide learning solutions to Customer. To request or schedule a learning event for Customer, Customer shall contact its Blackboard Account Manager, who will be designated upon execution of the Agreement. Events are typically scheduled 3 to 6 weeks in advance.

1.2 Hands-on class size is restricted to a maximum of 15 people to maintain an effective instructor-student ratio. Extra students may require an additional materials, instructor fee, or additional days. Large groups may request presentation learning instead of the hands-on classroom format.

1.3 Each class is structured as a hands-on/active learning seminar held in a computer classroom unless otherwise agreed. To insure the best learning experience, clients must provide:

Each class is structured as a hands-on/active learning seminar held in a computer classroom unless otherwise agreed. To insure the best learning experience, clients must provide:

- * A computer lab containing one computer for each student. Each computer must have at least 233 MHz processors and 64 MB of RAM and monitors capable of at least 800x600 resolution.
- * A high bandwidth Internet connection from each computer
- * Microsoft Internet Explorer 4.0 or later OR Netscape 4.7 or later installed on each computer
- * Recommended: Microsoft Office, Adobe Acrobat Reader, Windows Media Player, QuickTime and/or RealPlayer.
- * A video projection device capable of 800x600 resolution attached to a "lcad" computer.
- * Access to the locally installed version of Blackboard software or a Blackboard ASP installation.

1.4 All Learning Solutions training days purchased pursuant to this Schedule must be used within one (1) year of the Effective Date.

2. FEES FOR BLACKBOARD LEARNING SOLUTIONS STAFF.

2.1 Customer will reimburse Blackboard for (i) reasonable travel and living expenses incurred by Blackboard's employees and subcontractors for travel from Blackboard's offices in connection with the performance of the learning solutions, and (ii) international telephone charges. Expense items greater than \$500 must be pre-approved by Customer and supported by reasonable documentation indicating that Blackboard incurred such expenses. Except as provided above, each party will be responsible for its own expenses incurred in rendering performance under this Schedule including the cost of facilities, work space, computers and computer time, personnel, supplies and the like, except that Customer shall be responsible for supplying facilities for the learning services if Blackboard conducts learning services at a site other than Blackboard's facilities.

2.2 Cancellation. In the event that Customer cancels a scheduled training day, Customer shall be billed for cancellation fees as follows:

- * Prior to 21 days before the scheduled event: \$200
- * 15-21 days before the scheduled event=\$600
- * 8-14 days before the scheduled event=\$1000
- * 1-7 days before the scheduled event = the then current fee per cancelled day

IN WITNESS WHEREOF, the parties hereto have executed this Schedule as of the date first written above,

BLACKBOARD

Signature

Teresa Frazier

Print Name and Title
Senior Director, Contracts

Date:

12-31-03

CUSTOMER: The University of Montana - Missoula

Signature

JAMES R. STAUB, ASST. PROVOST

Print Name and Title

12/31/03

Date:

VOID IF EXECUTED AFTER SEPTEMBER 31, 2006
 THE UNIVERSITY OF MONTANA-MISSOULA

AMENDMENT ONE

TO THE UNIVERSITY OF MONTANA-MISSOULA BLACKBOARD AMENDED AND RESTATED SCHEDULE LS-1 DATED APRIL 25, 2005 BETWEEN BLACKBOARD INC. AND THE UNIVERSITY OF MONTANA-MISSOULA

This Amendment to the Amended and Restated Schedule LS-1 dated April 25, 2005 ("Schedule") between Blackboard, Inc. ("Blackboard") and The University of Montana-Missoula ("Customer") is made effective as of the date signed below.

The purpose of this amendment is to renew the Schedule, commencing on February 22, 2007 with renewal pricing (as indicated below) for the Customer's Learning System™ Software Annual License and Community System™ Software Annual License.

The parties hereby agree to the following terms and conditions:

1. Section, entitled SCHEDULE OF FEES is hereby modified in its entirety to include the following:

SCHEDULE OF FEES

Product Description	Quantity	Year 3 of Renewal Term Fees (USD) (February 22, 2007 to February 21, 2008)	Year 4 of Renewal Term Fees (USD) (February 22, 2008 to February 21, 2009)	Year 5 of Renewal Term Fees (USD) (February 22, 2009 to February 21, 2010)
Blackboard Learning System™ Software Annual License	1	\$56,700.00	\$56,700.00	\$59,535.00
One Time Price Reduction on Blackboard Learning System™ Software Annual License		<\$14,175.00>	<\$7,371.00>	
Blackboard Community System™ Software Annual License		\$28,400.00	\$28,400.00	\$29,820.00
One Time Price Reduction on Blackboard Community System™ Software Annual License		<\$7,100.00>	<\$3,692.00>	
Total Fees Due:		\$63,825.00	\$74,037.00	\$89,355.00

ALL OTHER TERMS AND CONDITIONS REMAIN IN FULL FORCE AND EFFECT

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

BLACKBOARD

SignatureLes Cercei - VP

Print Name and Title

Date:

9-8-06

THE UNIVERSITY OF MONTANA-MISSOULA

SignatureJane R. Straus, Assoc. Provost

Print Name and Title

Date: Sept. 8, 2006



Purchasing Department
Room 104 Montana Hall
Montana State University
P.O. Box 172600
Bozeman, MT 59717-2600

Telephone 406-994-3211 FAX 406-994-3000
Vendor # BLACKB

Blackboard Inc
ATTN Client Operations
1899 L St NW 5th Floor
Washington, DC 20036

Vendor Telephone: (202-463-4860)

Purchase Order

P0001475

This Purchase Order number must appear on your
invoice and all related correspondence

30-Sep-08	P.O. Date
06-Oct-08	Date Required
	Blanket #
Ship To:	
See Below for Correct Shipping Address	

Net 30 Days	Payment Terms:	Index No. (For internal use only) 432176	Enclose packing slip w/PO number with shipment.
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Destination	FOB Point	Reqn. No. R0002040	Please acknowledge this order with MSU Purchasing Dept., P. O. Box 172600, Bozeman, MT 59717-2600
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Item	Commodity/Description	Quantity	U/M	Unit Price	Extension
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1 Blackboard Inc. Renewal Product Code: AS-CELTD4-HENA06 Product Description: CE LTD HENA 8-15K For Period 10/6/2008-10/5/2009.	1.00	YR	38,700.0000	\$38,700.00
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Bill To: Montana State University - Bozeman
Extended University
P.O. Box 173860
Bozeman, MT 59717

Montana State University's Terms and Conditions
and Amendment to the License Software Schedule,
Blackboard Order Schedule, Renewal Notice, and
Blackboard Client Data Form are attached and
incorporated herein by reference.

A handwritten signature of Shawna Lanphear.

Authorized by

Shawna Lanphear

This purchase order is
limited to the amount given

Total \$38,700.00

Phone 406-994-3211

Important: The General Terms and Conditions shall apply and supersede any Vendor terms and conditions.

MONTANA STATE UNIVERSITY
Standard Terms and Conditions
Purchases with a Total Contract Value over \$25,000

PD-78
Rev 011807

By submitting a response to this Invitation For Bid (IFB) or Request For Proposal (RFP), or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The University reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, to make awards in any manner deemed in the best interest of the University. Bids, proposals, and limited solicitations will be firm for thirty (30) days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the University, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of five years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the University or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the University's solicitation document and a vendor's response, the language contained in the University's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTOR: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the University (MCA § 18-4-141).

AUTHORITY: The following bid, request for proposal, limited solicitation or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the American Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provisions. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the University. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies that by submitting this bid or proposal neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the University.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the University Purchasing Department prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to Requests for Proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder or offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the University may, at its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the University.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the University, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the University, under this Agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted, in the solicitation document the University is allowed 30 days to pay such invoices. All contractors may be required to provide banking information at the time of contract execution in order to facilitate University electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an Invitation for Bid for supplies or an invitation for bid for non-construction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov//procurement/preference.asp>.

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at 406-444-3665, or visit their website at <http://vendor.mt.gov/>.

SEPARABILITY CLAUSE: A declaration by any court, or any binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependant.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the Montana State University Purchasing Department of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The University is exempt from Federal Excise Taxes (#53-0183246).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (MCA § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the University may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The University, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (MCA § 18-4-313 (4).)

U.S. FUNDS: All prices and payments must be made in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this invitation for bid, request for proposal, or subsequent purchase order/contract, must be brought in the Eighteenth Judicial District in and for the County of Gallatin, State of Montana, and each party shall pay its own costs and attorney fees. (MCA § 18-1-401.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the University. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

AMENDMENT
TO THE MONTANA STATE UNIVERSITY, BOZEMAN
BLACKBOARD LEARNING SYSTEM CE™ ENTERPRISE LTD. LICENSE
SOFTWARE SCHEDULE
DATED SEPTEMBER 26, 2007
BETWEEN BLACKBOARD INC. AND MONTANA STATE UNIVERSITY, BOZEMAN

This Amendment to the Montana State University, Bozeman Blackboard Learning System CE™—Enterprise Ltd. License Agreement dated September 26, 2007 ("Agreement") between Blackboard Inc. ("Blackboard") and the Montana State University, Bozeman ("Customer") is made as of the last signature date below ("Amendment").

The purpose of this Amendment is to revise the language in Section 4, Subsection 4.6 entitled Other Rights.

The parties hereby agree to the following terms regarding the use of the Blackboard Software by Customer. The following sections of the Agreement are modified as follows:

1. Section 4.6 entitled Other Rights is hereby replaced in its entirety by the following:

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

All other terms and conditions remain in full force and effect.

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

BLACKBOARD

CUSTOMER: Montana State University, Bozeman

Signature
TESS FRAZIER-VICE PRESIDENT
Print Name and Title
Date:

Signature
Shauna R Langheinrich
Print Name and Title
Date: *9/30/08*

Blackboard Order Schedule

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

Product Description	Product ID	Qty.	Units	Total Price
CE LTD HENA 8-15K	AS-CELT4-HENA06	1	YR	\$38,700.00

Total:	\$ 38,700.00
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For: 8-15K FTE

For period: 10/6/2008 – 10/5/2009

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:

KIM O'BINK

Title:

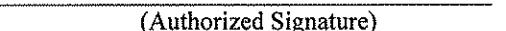
DIRECTOR, EXTENDED UNIV.

Date:

9/26/08

BLACKBOARD INC.

By:


(Authorized Signature)

Name:

Title:

Date:

Renewal Notice



Blackboard

Blackboard Inc.
650 MASSACHUSETTS AVE, NW
6TH FLOOR
Washington DC 20001-3796
USA

Phone: (202) 463-4860 X2721
Fax : (202) 318-2619
Federal ID # 52-2081178

Unless otherwise notified, invoice will be sent to the address below.

Client Contact Information

Montana State University, Bozeman

Boyd,Ritchie KIM OBBINK
205B Herrick Hall 128 EPS, Montana State University
Bozeman MT 59717
USA
jrboyd@montana.edu KOBBLINK@MONTANA.EDU

Client ID: 303745

Renewal Notice Date: July 01, 2008

The renewal pricing listed below is based on your contract with Blackboard and is provided to facilitate generation of purchase orders for your upcoming renewal Item. The amounts listed below **do not** include applicable taxes, which will be assessed and included at the time of invoice.

Renewal Number: REN0004651

<u>Qty</u>	<u>UofM</u>	<u>Product Code</u>	<u>Product Description</u>	<u>Start Date</u>	<u>End Date</u>	<u>List Price</u>	<u>Discount</u>	<u>Net Price</u>
1.00	YR	AS-CELTD4-HENA06	CE LTD HENA 8-15K	10/6/2008	10/5/2009	38,700.00	0.00	38,700.00
Renewal Amount								\$38,700.00

Blackboard Client Data Form

Please confirm or provide information so that Bb may update our contact information, create your license key, or provide accurate shipment information for Hardware and/or Oracle software.

INSTITUTION NAME	<input type="text"/>	<input type="text"/>	<input type="text"/>
Server Location - Street	Montana State University, Bozeman		
City, State Zip code	Extended University 128 EPS Bozeman, MT, 59717, USA		

Date:

Check here to use "Bill to" from Purchase Order.

<input type="checkbox"/> Select from List to right if Bill to Address is the . . .	<input type="checkbox"/> Same as Server Address Above
<input type="checkbox"/> Bill to Attention	<input type="checkbox"/> Kim Obbink
<input type="checkbox"/> Bill to Street	<input type="checkbox"/> Extended University 128 EPS
<input type="checkbox"/> Bill to City, State Zip	<input type="checkbox"/> Bozeman, MT, 59717, USA

Blackboard Learning System CE/VISTA Software Licenses

	Production	Test
Server Operating System		
Bb LS CE/VISTA Software Version		
IP address (LS CE Version 4.1 or prior)		
Instance (LS CE Version 4.1 or prior)		
Bb LS CE Enterprise ONLY - Dual Node?		

PRIMARY CONTACT	Phone	Email	Title
SUPPORT CONTACTS	Phone	Email	Title

Please provide a Purchase Order Number if known . . .	The above Client information was provided by . . .	Please return this completed form to
	"Enter name"	"Enter Telephone number."

ASQuotes@blackboard.com

Bb Server OS	Linux Solaris Windows N/A - Hosted
Bb Software Version/CE/VISTA	Bb LS CE Basic/Enterprise/Ltd 4.1 Bb LS CE Enterprise/Ltd 6.0/8.0 Bb LS Vista 3.0 Bb LS Vista 4.0/8.0
ASP Dedicated or Shared	Dedicated Shared
Same as 1	Same as Server Address Above
Same as 2	Same as Server Address Above Same as Bill to
SQL option	32 bit 64 bit
Yes/No	Yes No



The University of
Montana

PURCHASE ORDER

January 20, 2010

BUSINESS SERVICES - PURCHASING
MISSOULA MT 59812
406/243-6260 FAX 406/243-4929
FED ID: 81-6001713

NUMBER: P0003914

This Purchase Order Number must appear on your invoice and all related correspondence.

<p>VENDOR:</p> <p>BLACKBOARD CAMPUSWIDE INC 1899 L STREET NW, 5TH FLOOR WASHINGTON DC 20036</p> <p>Telephone: 315-699-6527 Fax: 202-318-2619 Attn: Patrick Geloff</p>	<p>DELIVER TO:</p> <p>THE UNIVERSITY OF MONTANA MISSOULA, MONTANA 59812</p>
<p>BILL TO:</p> <p>THE UNIVERSITY OF MONTANA BUSINESS SERVICES - ACCOUNTS PAYABLE MISSOULA MT 59812</p>	<p>FOB: FOB DESTINATION, FRT PREPAID & ALLOWED Delivery: As Requested Terms: Net 30</p> <p>Issued in accordance with offer to sell: Bid or Quotation No: Date: Other: Per vendor quote: REN0006327</p>
<p>Applicable to Requisition: Dept. Request</p>	<p>IMPORTANT: See included General Terms and Conditions.</p>

1.0 Scope

Purchase of: BLACKBOARD LICENSE Renewal -- for the period: Feb. 22, 2010 through Feb. 21, 2011

2.0 Description

Campus contact: Ray Ford, 406-243-2964; Ray.Ford@umontana.edu

ITEM NO.	DESCRIPTION	NUMBER	UNIT	TOTAL PRICE
1.	Blackboard Learning System ™ License. Blackboard Virtual Installation. Blackboard Learning Solutions. Learning System RNWL - Mar 2010- Feb 2011 Community System RNWL - Mar 2010 - Feb 2011 3 rd party hardware.	1	EACH	\$ 98,300.00

Period: Feb. 22, 2010 through Feb. 21, 2011

Total Fees Due: \$98,300.00

CONTRACT VALIDATED BY:	DATE:	PO NUMBER:	TOTAL:
 LU TERRY, CONTRACTS OFFICER 406-243-2204	Jan. 20, 2010	P0003914	\$ 98,300.00

CLIENT DATA FORM - RENEWAL ONLY

Please fill in your contact information below

Client ID: 100358
The University of Montana - Missoula

Server Location: 32 Campus Way
Missoula, MT 59812-0003

PRIMARY INSTITUTION CONTACT

Phone: Keith Lynip
Email: keith.lynip@umontana.edu
Title: Director, Extended Learning Services (XLS)

Standard Terms and Conditions

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The University reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the University. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the University, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by The University of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the University's solicitation document and a vendor's response, the language contained in the University's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

AUTHORITY: The attached bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the University Purchasing Office. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the University.

DISABILITY ACCOMMODATIONS: The University of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases, or limited solicitations ONLY if they are completely received by the University Purchasing Office prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with The University of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the University, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from

the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the University, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the University is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate University electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/procurement/preferences.asp>.

REDUCTION OF FUNDING: The University must terminate this contract if funds are not appropriated or otherwise made available to support the University's continuation of performance in a subsequent fiscal period. (See section 18-4-313(4), MCA.)

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the University of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The University of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the University may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the District Court for Missoula County, Missoula, Montana, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the University. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Exceptions will be rejected.