



Agenda Item Details

Meeting Sep 14, 2015 - Regular Meeting
 Category 7. Consent Agenda
 Subject 7.12 Exempted Purchase: Blackboard Connect, Inc., presented by Vince Windham, Program Director, Purchasing
 Access Public
 Type Action (Consent)
 Fiscal Impact Yes
 Budgeted Yes
 Budget Source General funds, Project 3007, School Notifications System
 Recommended Action Motion to approve the renewal of Blackboard Connect K-12 School Notification System - Basic Service for district wide use for a total amount of \$41,000.

Public Content

Motion to approve the renewal of Blackboard Connect K-12 School Notification System - Basic Service for district wide use for 30,800 recipients at \$1.25 each, for a total cost of \$41,000.00. Funding will be paid from general funds, project 3007 School Notification System. This purchase is exempt under 6A-1.012(11) (A). The contract is effective October 1, 2015 through September 30, 2016 and a copy is attached.

For additional information, please contact Andy Johnson, Specialist, Safe Schools at (850) 689-7198.

[2015-2016-BLACKBOARD.pdf \(333 KB\)](#)

Administrative Content

Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Documentation concerning these items have been provided to all Board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.

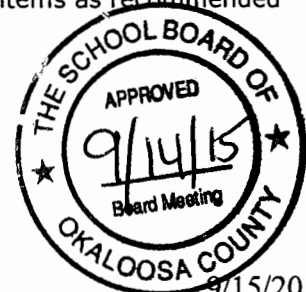
Motion & Voting

Motion to approve the Consent Agenda as amended and all of the Consent Agenda items as recommended by the Superintendent

Motion by Dewey Destin, second by Rodney Walker.

Final Resolution: Motion Carries

Yes: Dewey Destin, Cathy Thigpen, Melissa Thrush, Rodney Walker, Lamar White



SCHOOL DISTRICT OF OKALOOSA COUNTY
Purchasing Department

SUPERINTENDENT OF SCHOOLS
MARY BETH JACKSON

ATTORNEY TO THE BOARD
C. JEFFREY McINNIS, ESQ.

PGM. DIRECTOR - PURCHASING
VINCE WINDHAM, CPPB



BOARD MEMBERS
DEWEY DESTIN
CATHY THIGPEN
MELISSA THRUSH
RODNEY L. WALKER
LAMAR WHITE

July 8, 2015

Blackboard Inc.
Attn: Ms. Mary Lowe
650 Massachusetts Ave, N.W.
Washington, DC 20001-3796

Ms. Lowe:

On September 9, 2013 the School Board of Okaloosa County, Florida approved the Exempted Purchase from Blackboard Connect in the amount of \$39,012.50. The original contract period was effective October 1, 2013 through September 30, 2014. The contract was renewed for an additional year effective October 1, 2014 through September 30, 2015 in the amount of \$40,993.75.

We would like to request that the current contract be renewed for the period of October 1, 2015 through September 30, 2016 for 30,800 recipients at \$1.25, for a total cost of \$41,000.00. Please check one of the responses below indicating your decision regarding this request. Sign and return this letter, along with a completed copy of the enclosed Federal Debarment Certification to my attention, no later than Wednesday, July 29, 2015. To expedite, feel free to email your response to Becky Perrin at perrinb@mail.okaloosa.k12.fl.us, or faxing to 850-833-6327.

Thank you for your consideration. We look forward to doing business with you for another year.

Sincerely,

Vince Windham,
Program Director of Purchasing

☒ I agree to renew the contract adhering to original terms and conditions, for 30,800 recipients at \$1.25 for a total cost of \$41,000.00 for an additional one-year period through September 30, 2016.

☐ I decline to renew the contract for an additional one-year period.

Signature*

Tess Frazier

Please print name

Title VP- Contracts

Date July 29, 2015

**Note: Must be signed by an officer or employee having the authority to bind the company or firm.*

BLACKBOARD CONNECT™ SALES ORDER FORM

This Blackboard Connect Sales Order Form ("Order Form") between The School Board of Okaloosa County, FL ("Customer") and Blackboard Connect Inc. ("Blackboard") details the terms of Customer's use of the Blackboard services set forth in Section 1 below, and shall become effective on the date specified in Section 3 below ("Effective Date").

1. **SaaS, Notification, & Support Services:** The Customer hereby subscribes to the following Blackboard SaaS, notification and support services:

Product Name	Description	Units	Initial Term Fee (USD) Period 1: (12 months)
Blackboard Connect K-12 Service	Blackboard Connect K-12 Basic Service	29,210	\$36,512.50
			(\$1.25 per unit)
Blackboard Connect Support Service	24x7x365 Support Unlimited Online Training	1	\$2,500.00
Sales Order Total Fee (Initial Term):			\$39,012.50

Customer understands and agrees that this Order Form limits the use of the SaaS, notification and/or support services by the Customer to the delineated Description and Unit(s) specified above. Additional access to or usage of the software or services is subject to additional purchase.

2. **Initial Term (initial license term and any special requirements):** 12 months.

3. **Effective Date (applicable only if different from acceptance date as described in the preamble):** ~~October 1, 2013~~ September 30, 2013

4. **Recipient Definition (applicable only to notification services):** Parents of enrolled students, administrators, faculty, staff, and board members.

5. **Customer Billing Contact:**

Contact Name:	Vince Windham	Contact Phone:	850-833-5846
Street Address:	120 Lowery Place SE	City and State/Province:	Ft. Walton Beach, FL
Postal Code and Country:	32548, USA	E-Mail Address:	WINDHAMV@MAIL.OKALOOSA.FL.K12.US

6. **Payment and Term.** In consideration for the use of the SaaS, notification and/or support services (as applicable) during the Initial Term, the Customer will pay to Blackboard the fee(s) set forth above (the "Fee"). The total Fee will be invoiced on execution of the Agreement and is due within 30 days of invoicing. The term of this Agreement may be renewed for successive periods of one (1) year each (a "Renewal Term") after the expiration of the Initial Term and any subsequent Renewal Term, by mutual agreement of Customer and Blackboard. Each Renewal Term shall incorporate and be governed by Blackboard's then-current pricing, the applicable Fee for which will be due at the beginning of each Renewal Term, and payable within thirty (30) days after the date of an invoice from Blackboard.

7. **Terms of Service.** The terms of service, attached hereto as Exhibit A, ("Terms of Service") are incorporated herein by reference, and together with this Order Form constitute the agreement between the parties ("Agreement"). Capitalized terms not otherwise defined are defined in the Terms of Service. By executing and returning this Order Form, Customer acknowledges and agrees that its use of the Blackboard Connect services specified herein is subject to, and governed by, all of the terms and conditions of this Agreement including, without limitation, all of the rights, restrictions, indemnities, disclaimers and limitations set forth in the Terms of Service. The individual executing this Order Form on Customer's behalf represents and warrants that he or she has the authority to enter into this Agreement and bind the Customer to all of its terms and conditions as of the date indicated below. Notwithstanding anything to the contrary in any purchase order or any other document provided by Customer, any service provided or license granted by Blackboard to Customer in connection with a purchase order related to this Order Form is conditioned upon Customer's acceptance of this Order Form and the Terms of Service incorporated by reference herein. Any additional, conflicting or different terms proffered by Customer in a purchase order or otherwise shall be deemed null and void.

Blackboard Connect Inc.

Signature

Print Name and Title: Tess Frazier, VP Contracts

Date:

9-9-13

NAME OF CUSTOMER: The School Board of Okaloosa County

Signature

Print Name and Title: Rodney L. Walker, Chairman

Date:

9-9-13

Exhibit A
Blackboard Connect Standard Terms of Service

These Blackboard Connect Standard Terms of Service ("Terms of Service") apply to all uses of Blackboard Connect Inc. services (the "Service") and are entered into by and between the party purchasing the Service (the "Customer") and the Blackboard entity contracting to provide the Service ("Blackboard") (collectively, the "Parties" and each individually, a "Party"). These Terms of Service together with the agreement or order form which incorporates these Terms of Service by reference and pursuant to which the Service is ordered by Customer (the "Purchasing Document") constitute the "Agreement" between Blackboard and Customer. The Service will be provided to Customer subject to and in accordance with the terms and conditions of the entire Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged.

Accordingly, the Parties hereby agree as follows:

1. **The Blackboard Connect Service(s).** In consideration for the payment by the Customer of all fees set forth in the Purchasing Document, Blackboard shall provide the Customer with the Service(s) set forth therein.
2. **Term and Termination.** The Agreement will be effective during the term set forth in the Purchasing Document (the "Term"). If Customer inputs any information or other data into Blackboard's systems and/or sends any messages prior to the Term, the terms and conditions of this Agreement also apply to such use.
 - a. **Termination with Cause.** Either Party may terminate this Agreement in the event of a material breach by the other Party, which breach remains uncured for thirty (30) days following written notice to the breaching Party. In the event of a termination by Customer for an uncured material breach, the Customer will receive a prorated refund of the applicable service fee (minus support fees if any) calculated from the date of termination to the end of the applicable annual period. Blackboard may terminate this Agreement immediately for non-payment.
 - b. **Effect of Termination.** In the event of termination or expiration of this Agreement, the Customer will: (i) immediately discontinue access to and/or use of the Service under this Agreement; (ii) pay to Blackboard all amounts due and payable under this Agreement; (iii) return all documentation and related training materials to Blackboard within a reasonable time at the Customer's cost; (iv) immediately cease any use of Blackboard's Confidential Information (as defined below); (v) delete any of Blackboard's Confidential Information from its computer storage or any other media, including, but not limited to, online and off-line libraries or databases; and (vi) return to Blackboard or, at Blackboard's option, destroy, all copies of Blackboard's Confidential Information then in its possession. Any termination of this Agreement will not affect any rights or liabilities of either Party that accrued prior to such termination. Sections 2, 3, 7, 9, 10, 11, 13 and 15 will survive the expiration or termination of this Agreement for any reason.
3. **Payment Terms.** Except as specifically set forth the Purchasing Document, each applicable service fee will be invoiced on execution of the Agreement and is due within 30 days of invoicing; thereafter, the service fee will be due at the beginning of each annual period and is due within thirty (30) days after the date of an invoice from Blackboard. Late payments may be assessed at the lesser of 1.5% per month or the maximum allowable rate under applicable law.
4. **Taxes.** The fees hereunder do not include any sales, use, or other taxes, government fees or levies on the provision of the Service. Customer will be responsible for payment of all applicable taxes, fees or levies, unless the Customer is exempt therefrom and provides Blackboard with a copy of Customer's tax exemption certificate or number. All payments to Blackboard shall be made without any deduction or withholding, unless required by applicable law in which the Customer shall ensure that the net amount actually received by Blackboard from the Customer equals the full amount Blackboard would have received had no such deduction or withholding been required.
5. **Expenses.** Except as provided in the Purchasing Document, each Party will be responsible for its own expenses incurred in rendering performance hereunder, including, without limitation, the cost of facilities, work space, computers and computer time, development tools and platforms, utilities management, personnel and supplies. In addition, if Blackboard is required by applicable law, legal process, government action or audit to produce information, files, documents or personnel as witnesses with respect to the Agreement or the products or services provided to Customer by Blackboard, Customer shall reimburse Blackboard for any professional time and expenses including reasonable external or internal legal costs incurred to respond to the request.
6. **Purchase Orders.** Customer agrees that if its internal procedures require that a purchase order be issued as a prerequisite to payment of any amounts due to Blackboard, it will timely issue such purchase order and inform Blackboard of the number and amount thereof. Customer agrees that the absence of a purchase order, or other ordering document or administrative procedure may not be raised as a defense to avoid or impair the performance of any of Customer's obligations under the Agreement, including payment of amounts owed to Blackboard. Any additional term, condition, requirement or obligation set forth in a purchase order or other ordering document shall not be binding upon Blackboard absent Blackboard's express written consent in each instance.
7. **Confidentiality.** Each Party agrees to maintain the confidentiality of the other Party's Confidential Information (as defined below), with no less than a reasonable degree of care. Blackboard "Confidential Information" shall include, but not limited to, the Service and all documents relating to the provision of Service including but not limited to the training guides and manuals. Each Party agrees to limit access to the Confidential Information to those of its employees and agents who have a business need for the access and who have been clearly informed of their obligation to maintain the confidential, proprietary and/or trade secret status of such Confidential Information and will only disclose information as necessary to comply with applicable laws and government orders or to operate or maintain the Service. Blackboard does not rent, trade, or sell Recipient Data received from Customer to third parties, and will only disclose information as necessary to comply with applicable laws and government orders or to operate or maintain the Service.
8. **Privacy Policy and Acceptable Use Policy.** The Customer agrees to comply with the then current Acceptable Use Policy and Privacy Policy (collectively, the "Policies"), which Blackboard reserves the right to modify, from time to time, effective five (5) days after such modified Policies are posted at the relevant link (which can be found at the Blackboard Website located at www.blackboardconnect.com), such posting to constitute effective notice of changes. In the event of an express conflict between the terms of the Agreement and the terms of the Policies, the terms of the Agreement will prevail.
9. **Representations and Obligations.** The Customer represents and warrants that: (a) it will comply with all applicable laws, regulations and contracts in use of the Service and with respect to the content and transmission of its messages sent using the Service; (b) it will use best efforts in providing accurate and complete Recipient Data (as defined in the applicable Purchasing Document); (c) it has met all legal, regulatory and contractual requirements in providing, and using, the Recipient Data, in connection with the Service, including, but not limited to, obtaining and maintaining a record of explicit consent to call a Recipient for the stated purpose(s); (d) it will maintain the confidentiality of its password and account information, and agrees to notify Blackboard in the event of an actual or suspected unauthorized access to its account, or if it loses its account information; (e) it will have in place primary safety and emergency response procedures in the event of an emergency (including without limitation, notifying 911 or equivalent, fire, police, emergency medical, and public health, collectively, "First Responder Services") which do not utilize the Service; (f) it will not subject Blackboard to any regulations or laws due to the import of certain Recipient Data; (g) it will provide a means for Recipients to rescind consent to receive calls and will not send messages to Recipients who have opted out of receiving messages from the Customer; (h) if Customer purchases data from Blackboard, it will only use such data purchased from Blackboard to contact individuals pursuant to the

use of the Service and is prohibited from downloading or making copies of such data purchased from Blackboard if such activity would violate an applicable law, regulation or contract; (i) it will not use the Service in combination with products or services not provided by Blackboard or in a manner for which the Service was not designed, which would cause the Service to infringe on a third party intellectual property right; and (j) where Customer is providing a recipient count or other data for the purposes of Blackboard's Service pricing quotations, such information shall be true and correct. The Customer will designate qualified personnel to act as liaisons between the Customer and Blackboard respecting technical, administrative and content matters, and providing accurate and current contact information. The Customer agrees to defend, indemnify and hold harmless Blackboard against any damages, losses, liabilities, settlements, and expenses (including without limitation, costs and reasonable attorneys' fees) in connection with any claim or action that arises from the content or effects of any messages the Customer distributes using the Service or the Customer's use of the Service. Customer's liability shall not exceed the waiver limits of sovereign immunity under Florida law.

10. **Limitation of Liability.** In no event will Blackboard, its officers, employees, representatives or licensors be liable to Customer for any indirect, punitive, reliance, special, consequential, exemplary, or other similar damages of any kind or nature whatsoever, suffered by the Customer or any third party (including without limitation, business interruption, downtime, or any use of, or failure to use the Service, or any loss of business, contracts, profits, anticipated savings, goodwill or revenue, or any loss or corruption of data), arising out of this Agreement, the Service, or the transactions contemplated hereby, even if a Party has been advised of the possibilities of such damages or should have foreseen such damages. Blackboard, its officers and employees will not be liable for any damages or injury with respect to the performance of the Service, including, but not limited to, any failure of performance, error, omission, defect, delay, computer virus, or line failure, interruptions or disruptions in the services contemplated under this Agreement caused by or resulting from any act, omission or condition beyond Blackboard's reasonable control, whether or not foreseeable or identified, including but not limited to, transmission errors, or corruption or security of information carried over telecommunication lines, failure of digital transmission links, hostile network attacks or network congestion, or acts of God, acts of war, governmental regulations, public utilities or telecommunication providers, shortage of equipment, materials or supplies, fire, power failure, earthquakes, severe weather, floods or other natural disaster or the Customer's or any third party's applications, hardware, software or communications equipment or facilities, unless same results from the intentional or willful acts of Blackboard. Under no circumstances will the aggregate liability of Blackboard to the Customer or any third party arising out of or related to this Agreement or the provision of the Service, exceed the aggregate fees paid to Blackboard under this Agreement during the 12 month period immediately prior to the event, act or omission giving rise to such liability, regardless of whether any action or claim is based on warranty, indemnification, contract, tort or otherwise. The existence of multiple claims will not enlarge this limit. The foregoing limitations of liability are intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective. Nothing contained in the foregoing limits or excludes the liability of Blackboard for liability which cannot be excluded by law. Notwithstanding anything contained herein to the contrary, the Customer shall be responsible for all claims and damage resulting from the misuse of the Service by the Customer or its users including reimbursement of any expenses incurred by Blackboard in defending claims arising from such misuse. The Parties acknowledge and agree that the fees, limitations of liability and remedies reflect the allocation of risk between the Parties, and are essential elements of the basis of the bargain between the Parties and that in its absence, the economic terms of this Agreement would be substantially different. Blackboard reserves the right to modify or remove any functionality that may be alleged to infringe a third party's intellectual property rights.
11. **Limited Warranty.** THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, BLACKBOARD EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES RELATING TO THE SERVICE, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, DATA ACCURACY, SATISFACTORY QUALITY, NON-INFRINGEMENT, AND/OR QUIET ENJOYMENT. NEITHER BLACKBOARD NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE SERVICE WILL MEET ANY REQUIREMENTS OR NEEDS CUSTOMER MAY HAVE, OR THAT THE SERVICE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION. BLACKBOARD AND ITS LICENSORS MAKE NO GUARANTEE OF ACCESS TO OR OF ACCURACY OF THE CONTENT CONTAINED IN OR ACCESSED THROUGH THE SERVICE. In the event of the Service's failure to comply with this Agreement, the Customer's sole remedy shall be to terminate the Agreement. The Customer acknowledges and agrees that the Service is not intended, nor designed, for use in high risk activities, or in any situation where failure of the Service could lead to death, personal injury, or damage to property, or where other damage could result if an error occurred and the parties further agree that, to the extent not prohibited by applicable law, Blackboard shall not be liable for any death, personal injury or damage to property. The Customer also acknowledges and agrees that the primary recourse of the Customer in the event of any actual or potential threat to person or property should be to contact First Responder Services and that the Service is not intended to replace First Responder Services, or to be used for communicating with, or replace notification to, or interoperate directly with, First Responder Services, which should have already been notified and deployed prior to using the Service.
12. **Suspension.** Blackboard may suspend, in whole or part, with or without notice, the Service, or any portion thereof, for: (a) use of the Service in material contravention of the terms of this Agreement; (b) emergency network repairs or threats or actual breach of network security; (c) any legal, regulatory, governmental or network provider prohibition or limitation affecting the Service; or (d) Customer's failure to make payment. Blackboard will provide written notice as soon as reasonably practicable of any such suspension. Blackboard will not be liable to Customer or any third party for any damages, expenses or losses incurred as a consequence of any such suspension.
13. **Authority to Execute / No Conflict.** The person executing the Purchasing Document on the Customer's behalf represents and warrants that: (a) he or she has the authority to enter into this Agreement on the Customer's behalf and bind the Customer accordingly; (b) the Purchasing Document as delivered to Blackboard has been duly and validly executed and constitutes a legal, valid and binding obligation of the Customer, enforceable against the Customer in accordance with its terms; (c) the execution, delivery and performance of this Agreement does not conflict with or violate any law, regulation, policy, administrative order or ruling, or other governmental requirement, restriction or policy to which the Customer is subject; (d) no consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made (which has not already been obtained or made) by the Customer in connection with the execution, deliver and performance of this Agreement; and (e) this Section is intended as a material inducement for Blackboard's entering into this Agreement.
14. **Notices.** All payments under the Contract shall be sent to the address set forth on the applicable Purchasing Document. Any other notices to Blackboard must be in writing and may be delivered in person or by courier, sent by facsimile, or mailed postage prepaid, return receipt requested to Blackboard Connect Inc., c/o Blackboard Inc., Attn: Legal Department, 650 Massachusetts Ave., NW, 6th Floor, Washington, DC 20001. Except as specifically set forth in the applicable Purchasing Document, notices to the Customer must be in writing and may be delivered in person or by courier, sent by facsimile, or mailed by certified or registered mail, postage prepaid, return receipt requested to the address on the signature page and to the attention of the signatory. Any notices will be effective upon receipt by the Party receiving such notice.
15. **Miscellaneous.** The Customer acknowledges and agrees that the Confidential Information and all other materials pertaining to the use of the Service are not purchased or developed with Customer funds. Accordingly, nothing in this Agreement grants or transfers to the Customer any ownership rights in the foregoing materials or the Service. Any additional charges incurred by a Recipient in connection with the Recipient's telephony or data plan for messages, including but

not limited to text message fees or data fees, shall be payable by the Customer or Recipient. Each Party may seek any relief, including equitable relief provided under law. The Customer is expressly prohibited from reproducing, modifying, duplicating, copying, making derivative works, publicly displaying, or otherwise exploiting, in whole or in part, the member pages of the Blackboard website without the express written permission of Blackboard. This Agreement is governed and interpreted in accordance with the governing law of the state of the Customer; provided, however, that if the Customer is located outside of the United States this Agreement is governed by and interpreted in accordance with the laws of the State of New York without reference to its conflicts of law provisions. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. In addition to any other relief awarded, the prevailing party in any action arising out of this Agreement shall be entitled to its reasonable attorneys' fees and costs. Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement. In the event that any provision of this Agreement is invalid under applicable law, the remainder of this Agreement will continue in full force and effect, and the Parties will replace the invalid provision with one that, as much as possible, reflects the original intentions of the Parties and is valid under applicable law. Blackboard is providing a service to the Customer as an independent contractor. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity other than Blackboard or Customer, any rights, remedies or other benefits under or by reason of this Agreement. Neither Party may assign this Agreement without the other Party's prior written consent, provided, that Blackboard may assign this Agreement without the Customer's prior consent to: (a) a parent, subsidiary or affiliate of Blackboard, or (b) any entity or successor that acquires all or substantially all of the business, stock, or assets of Blackboard. Any assignment made in conflict with this provision shall be void subject to the foregoing, and this Agreement shall benefit and bind the permitted successors and assigns of the Parties. The Agreement may be executed in counterparts and a signature on a copy of this Agreement received by either Party by facsimile is binding upon the other Party as an original. This Agreement expresses the complete and final understanding of the Parties with respect to the subject matter hereof, and supersedes all prior communications between the Parties, whether written or oral with respect to the subject matter hereof. Except as stated herein, this Agreement may be amended only in writing that refers explicitly to this Agreement and that is signed by an authorized representative of both Parties.

16. **Weather Alerts.** If Customer is purchasing Blackboard's weather alerts service, the following also shall apply. Customer acknowledges and agrees that Blackboard is delivering weather information created and provided by a third-party public service, and not Blackboard. Weather forecasting is an inexact science. Blackboard makes no express or implied warranties, guarantees or affirmations that weather will occur or has occurred as the public alerts, reports, forecasts, data, or information state, represent or depict and it shall have no responsibility or liability whatsoever to Customer or any other person or entity, parties and non-parties alike, for any inconsistency, inaccuracy, or omission for weather or events predicted or depicted, reported, occurring or occurred. **CUSTOMER AND THIRD PARTIES ARE SOLELY RESPONSIBLE FOR ACTION OR LACK OF ACTION TAKEN TO PRESERVE LIFE OR PROPERTY.**
17. **Portal Access.** If Customer is purchasing portal access, the following also shall apply. Customer agrees that the portal is for the sole purpose of enabling Recipients to update and add their contact information. If the Customer elects to use the portal, Blackboard grants for the Term of such use to Customer a limited non-exclusive, worldwide, royalty-free license to place a digital image of the Blackboard "sign-up" logo, which will be presented to Customer (the "Image"), on an appropriate page of the Customer's internet site, located at a URL to be provided by the Customer, with a hyperlink to Blackboard's portal site (the "Link"). The Customer may not use any other trademark or service mark in connection with the Image without the prior written approval of Blackboard. The Link may not be used in any manner to provide a user with access to the portal via any framing, layering or other techniques now known or hereafter developed that permit display of the portal with any materials posted by Customer or any party other than Blackboard. Customer may not allow the Image to be linked to any other web site. The Customer may not use the Image in any manner not permitted hereunder, modify the Image, or copy, or create a derivative work from, the "look and feel" of the Image. Blackboard will have the right to review all uses of the Image for quality control purposes and proper compliance with guidelines, as they may be modified from time to time. The Image and the goodwill associated therewith are valuable properties belonging to Blackboard and all rights thereto are and shall remain Blackboard's sole and exclusive property. Blackboard reserves the right to modify permission to use the Image and/or the Link at any time.
18. **API License.** If Customer is purchasing an application programming interface ("API") license, the following also shall apply. Blackboard grants to the Customer a limited, non-exclusive, revocable, non-sublicensable, non-transferable license, to access the API's set forth in the Purchasing Document. The API(s) is provided in the form of a web service that enables a "connection" into Blackboard's servers. Blackboard will provide the Customer with a URL for the connection, instructions to create a unique token to authenticate the Customer's servers, an API key, password, and basic testing of connectivity. Customer may not use or install the API(s) for any other purpose without the written consent of Blackboard, and may not copy, rent, adapt, disassemble, lease, assign, sublicense, reverse engineer, modify or decompile, the API(s) or any part thereof. Blackboard reserves the right to limit the number and/or frequency of API requests.
19. **Emergency & Outreach Messaging.** If Customer is purchasing messaging restricted by use-case, the following also shall apply. An "Emergency" is an incident, situation or natural phenomenon that: (i) is immediately threatening to life, health, property or the environment; or (ii) has caused loss of life, health detriments, property damage or environmental damage; or (iii) has a high probability of escalating to cause immediate danger to life, health, property or environment. An "Emergency Message" is a message sent to all Recipients in connection with an Emergency. An "Outreach Message" is a message sent to one or more Recipients for general outreach and informational purposes that is not an Emergency Message.
20. **Messaging Outside the US & Canada.** If Customer is purchasing messaging for initiation or delivery outside the United States and Canada, the following also shall apply. Customer acknowledges and agrees that territories outside the United States and Canada may have territorial restrictions resulting from applicable law in the territory, telecommunication or internet infrastructure limitations, telecommunication or internet service provider policies, or communication device customizations that inhibit or prevent the delivery of SMS, text or other messaging, or restrict the ability to place or receive certain calls (e.g., outbound toll-free calls). Such restrictions may impede certain aspects of the Service. Blackboard shall not be responsible for such impediments.
21. **Blackboard Infringement Obligations.** If any third party brings a claim against Customer alleging that the Offering infringes a U.S. or European patent or a copyright under applicable law of any jurisdiction in which Customer is using the Offering, Customer must promptly notify Blackboard in writing and make no admission in relation to such alleged infringement. Provided that Customer has promptly fulfilled all of the foregoing obligations and is not in material breach of the Agreement, Blackboard shall at its own expense and option: (a) indemnify, defend, and settle such claim, (b) procure Customer the right to use the Offering, (c) modify or replace the Offering to avoid infringement; or (iv) refund the applicable fee paid for the current term. In the event that Blackboard exercises option (a) above, it shall have the sole and exclusive authority to defend and/or settle any such claim or action, provided that Blackboard will keep Customer informed of, and will consult with any independent legal advisors appointed by Customer at Customer's own expense regarding the progress of such defense.

END OF EXHIBIT A.