ADDENDUM TO AGREEMENT

This Addendum to Agreement ("Addendum") shall modify that Blackbaud Order No. Q-00704574 and all terms and any other materials therein incorporated by reference or otherwise made by and between the Alamo Community College District, a political subdivision of the State of Texas ("ALAMO COLLEGES DISTRICT"), concerning its Department of Institutional Advancement and its affiliated Alamo Colleges Foundation, Inc. ("College"), and Blackbaud, Inc., a Delaware corporation ("CONTRACTOR"), effective the ___ day of August, 2019 ("Agreement").

WHEREAS, CONTRACTOR has proposed a form of agreement between the parties; and

WHEREAS, ALAMO COLLEGES DISTRICT has proposed certain modifications to that form of agreement to be set forth in this Addendum to that Agreement; and

WHEREAS, the Parties wish to modify certain terms and conditions of the Agreement:

NOW, THEREFORE, CONTRACTOR and ALAMO COLLEGES DISTRICT hereby agree as follows.

1. The provisions of this Addendum shall modify the terms of the Agreement as herein specified, shall prevail over any conflicting provisions of the Agreement to the extent of such conflict, effective as of the initial Effective Date of the Agreement, and shall survive any termination of the Agreement.

2. ALAMO COLLEGES DISTRICT is a state governmental unit that is prohibited by law from indemnifying other parties pursuant to applicable Texas Attorney-General opinions. Notwithstanding anything appearing elsewhere to the contrary, there shall be no special assumption of liability, and no indemnification or "holding harmless" of CONTRACTOR, or any other party, by ALAMO COLLEGES DISTRICT under the Agreement as herein modified, regardless of how characterized.

3. Notwithstanding anything appearing elsewhere to the contrary, ALAMO COLLEGES DISTRICT is a unit of Texas government and as such is authorized to make payments to vendors only as provided by applicable statute, Texas Government Code Section 2251.021(b), the provisions of which (essentially net 45 days) shall override any contrary language of the Agreement. Late charges are excluded. Any interest on overdue amounts shall not exceed the rate(s) established by the Texas Local Government Code, currently set forth at Section 271.153(a)(4).

4. Notwithstanding anything appearing elsewhere to the contrary, all questions of ALAMO COLLEGES DISTRICT’s powers, privileges and immunities, confidentiality obligations, restrictions on powers, choice of law, limitations periods, payment terms, access to courts and liability for attorney’s fees and interest shall be governed by the internal laws and regulations of the State of Texas, and none of such shall be deemed waived by reason of execution of the Agreement. The parties hereby stipulate to the non-exclusive jurisdiction and venue of the courts of competent jurisdiction of Bexar County, Texas for any matter related to the Agreement.

5. ALAMO COLLEGES DISTRICT commits only its current revenues hereunder, as required by Texas law. The ALAMO COLLEGES DISTRICT Board retains the continuing right to terminate the Agreement without liability for said termination at the expiration of each budget period during its initial and renewal terms. The ALAMO COLLEGES DISTRICT Board will make best efforts to obtain and appropriate funds to meet ALAMO COLLEGES DISTRICT’s obligations under the Agreement, consistent with the maintenance of reasonable reserves.

6. Any confidentiality obligations of ALAMO COLLEGES DISTRICT under the Agreement are modified to provide that disclosure of certain material by ALAMO COLLEGES DISTRICT may be required
due to its status as a state governmental entity under the Texas Open Records Act ("Act"). ALAMO COLLEGES DISTRICT agrees to apply any and all available exceptions under the Act to disclosure of ALAMO COLLEGES DISTRICT records containing any CONTRACTOR confidential information protected by the Agreement and to promptly notify CONTRACTOR of any pending disclosure request under the Act pertaining thereto in order to enable CONTRACTOR to monitor and, if it so wishes, to the extent permitted by law, intervene to oppose such disclosure.

7. CONTRACTOR warrants its full title and right to grant any license granted to ALAMO COLLEGES DISTRICT under the Agreement free and clear of any claim of any third party, and does hereby indemnify ALAMO COLLEGES DISTRICT and College from and against any liability to third parties claiming intellectual property rights in any material so licensed or otherwise infringed and from any associated costs of any kind whatsoever, which indemnity will not be limited by any limitation of CONTRACTOR’s liability as may appear in the Agreement.

8. CONTRACTOR agrees to comply with all applicable law, including, without limitation, to ensure that its activities hereunder do not cause ALAMO COLLEGES DISTRICT to fail to comply with all applicable federal statutes and regulations, including, without limitation, the Family Educational Rights and Privacy Act, 20 United States Code 1232g, 34 CFR Part 99 ("FERPA"). Any exchange by the parties of student record information protected by FERPA (which includes information generated by Contractor for inclusion in a student record) shall commit the receiving party to limit the use of such information to the purposes for which the disclosure was made, to forbid any re-disclosure except in compliance with applicable FERPA regulations, including, without limitation, 34 CFR 99.33 and either with the specific written permission of Alamo Colleges District, or in strict compliance with any explicit permission granted to Contractor in the Agreement or separately by the eligible student, and to require the return or certified secure destruction by Contractor of all such information, including any copies that may reside in system backups, temporary files, or other storage media, as soon as the intended purpose for such disclosure ends.

9. The Agreement is modified to delete any requirement of mandatory arbitration and to delete any reduction in the applicable statute of limitations. The Agreement shall not be construed to restrict or waive ALAMO COLLEGES DISTRICT’s right to claim governmental immunity, except to the extent provided by Texas statutes.

10. Any provisions of the Agreement limiting liability for damages shall be bilateral and inapplicable to any indemnification or data breach liability of CONTRACTOR to ALAMO COLLEGES DISTRICT, and attorney’s fees will be awardable only to the prevailing party in any dispute hereunder, and collection agency fees are excluded.

11. Pursuant to Section 231.006, Texas Family Code, CONTRACTOR certifies its eligibility to receive payment under the Agreement and acknowledges that the Agreement may be terminated and payment thereunder withheld if this certification is inaccurate. If Contractor is an entity and becomes delinquent in the payment of any Texas Margin Tax due, then any payments due to Contractor may be withheld until such delinquency is remedied. Contractor hereby certifies that it is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State (the “Foreign Organization List”). In the event that Contractor is added to the Foreign Organization List at any time during the term of this Contract, Contractor shall promptly provide notice to ALAMO COLLEGES DISTRICT. ALAMO COLLEGES DISTRICT may, at its discretion, terminate the Agreement immediately upon receipt and verification of information, by any means, that Contractor has been added to the Foreign Organization List.

12. The automatic renewal of the Agreement absent advance written notice of non-renewal by Alamo Colleges District shall be for an annual renewal term only.
13. The Alamo Colleges Foundation, Inc. is substantially funded and staffed by employees of the Alamo Colleges District Office of Institutional Advancement, both of which are authorized users under the Agreement.

14. No amendment or modification to the Agreement as herein amended shall be made other than one made in writing subsequent to the effective date hereof and signed by the party to be bound thereby, and any such shall not have the effect of modifying the terms and continuing applicability to the Agreement as so modified of this Addendum unless specifically referencing an intention to amend this Addendum.

Intending to be bound, the Parties sign below.

CONTRACTOR:

By: ______________________
Name: ______________________
Capacity: ______________________

ALAMO COMMUNITY COLLEGE DISTRICT

By: Gary O'Bar, C.P.M.
Name: ______________________
Capacity: Director, Purchasing & Contract Administration
Bill to:  
Joseph Talkington  
Alamo Colleges Foundation  
1819 N. Main Avenue  
San Antonio, TX 78212-3941

Sold to:  
Anna Rangel  
District  
Alamo Colleges Foundation  
1819 N. Main Avenue  
San Antonio, TX 78212-3941

Valid Until:  8/30/2019  
Currency:  USD  
Payment Terms:  NT15

For benefit of Alamo Colleges Foundation

Subscriptions

Award Management Community Col LearnMore  
1 Day

Price: $4,125.00/year
Billed: Annual  
Contract term: 36 months

Year 1: $3,712.50  
Year 2: $3,712.50  
Year 3: $3,712.50

Award Management Community Coll Engage  
200-399 Funds

Included: Community College eLibrary, Community College Engage

Price: $34,500.00/year
Billed: Annual  
Contract term: 36 months

Year 1: $34,500.00  
Year 2: $34,500.00  
Year 3: $34,500.00

Services

Award Management Community Coll Imp FPE

Price: $8,000.00
Billed: 50% Up Front/ 50% in 90 Days

$7,200.00

New order totals:

Year 1: $45,412.50
Year 2: $38,212.50
Year 3: $38,212.50
Usage Allowance

Award Management Community Coll Engage: 200-399 Funds
Award Management Engage Supported Users: 5 User
5 Engage Supported Users

General Terms

Enter text here to overwrite the above PO Number or add a note to the invoice: [(add_es_:signer1:string(maxlen=35))]

The fees and terms on this Order Form are valid until 8/30/2019. This Order Form is governed by the Blackbaud Solutions Agreement and applicable terms and conditions in the Online Terms and Conditions Center, and by signing this Order Form You agree to these terms.

Renewals:

Unless You notify Blackbaud in writing of Your desire to cancel at least forty-five (45) days prior to the start of the upcoming renewal term, Your Subscription shall renew for consecutive terms equal in length to the initial term. Renewal fees or Subscription pricing for renewal terms are subject to a reasonable adjustment.

Fees, Expenses and Payment:

a. Fees, Duties, and Taxes. Fees for Solutions are set forth in this Order Form, exclusive of taxes. Unless Blackbaud has a current and valid tax exemption certificate on file, You will be responsible for all applicable taxes.

b. Expenses. If Blackbaud incurs reasonable travel and living expenses to perform Your Services, You are required to reimburse Blackbaud for such expenses pursuant to Blackbaud’s then-current travel policy, available to You upon request.

c. Invoices. The initial invoice for Your Solutions is issued immediately following Order Form signature. All other invoices shall be issued as follows: (i) invoices for Services will be issued in accordance with the applicable SOW; (ii) pro forma invoices for upcoming Subscription renewals shall be sent to You at least sixty (60) days prior to the start of the renewal term; (iii) and unless terminated in compliance with the Suspension; Acceptable Use Policy (Section 3(a) of the Blackbaud Solutions Agreement), final renewal invoices for Subscriptions will be issued at least thirty (30) days prior to the start of the renewal term.

d. Payments and Late Payments. Payment is due as stated in this Order Form. All payments are non-refundable except in the event of Our uncured material default under this agreement. If You believe an invoice is inaccurate, You must notify Blackbaud in writing within thirty (30) days from the date of such invoice. Except for amounts subject to a good faith dispute, We may invoice You an interest rate allowable under applicable laws for any outstanding invoice not paid when due.

Your selection of our Award Management service offering purchased on this Order Form is subject to and governed by additional terms: https://www.blackbaud.com/files/BBAM-Terms-and-Conditions.pdf and by signing this Order Form You agree to be bound by these terms.

Our records indicate that you are Tax Exempt. You will not be charged sales tax on your orders as long as your exemption certificate has not expired. If it has expired, send the new certificate to: SalesTaxExemptCertificates2@blackbaud.com.
You acknowledge that certain aspects of Our Solutions interface with and share client content with partner applications purchased by You from third parties ("Partner Applications"). We make no warranty with respect to any Partner Applications, and We shall have no liability should client content become unavailable from such Partner Applications for any reason. Your use and remedies with respect to such Partner Applications shall be pursuant to the applicable third-party agreements in place between You and the third-party provider of the Partner Application.

Pricing for Your Blackbaud subscription solution is based on Your number of records. If You exceed the number of records for Your level, Your Subscription will be upgraded to the next applicable level. Once You are upgraded, You may not reset to a lower usage level until Your next renewal period.

**Scopes of Work**

The Professional and Consulting services charges listed on this Order Form are for this purchase only and are subject to the Professional and Consulting Services General Terms. Information specific to the Professional and Consulting services project, or work, can be found in the applicable Statement(s) of Work (SOW).

**Project Contact Name:**

Enter text here to overwrite the above Project Contact Name: {{projConName_es_:signer1:string}}

**Project Contact Email:**

Enter text here to overwrite the above Project Contact Email: {{projConEmail_es_:signer1:isemail}}

**Award Management**

**Community Coll Imp**

**FPE**

**IN WITNESS WHEREOF,** the parties have caused this Order Form to be executed by their duly authorized representatives.

**AGREED:** Gary O'Bar, C.P.M.

**Client:** Alamo Colleges Foundation

**By:** {{_es_:signer:signature}}

**Name:** {{_es_:signer:fullname}} Gary O'Bar

**Title:** {{_es_:signer:title}} Director, Purchasing & Contract Administration

**Date:** {{_es_:signer:date}} 08/23/19

**Effective Date**

All proposed modifications, variations, edits, or additions to this Order Form are objected to and deemed material unless otherwise mutually agreed to in writing.
This Blackbaud Solutions Agreement is entered into by You and Blackbaud and each party agrees as follows:

1. Welcome To Blackbaud
   This agreement sets forth the terms and conditions that govern Your access to and use of Our Solutions. Please contact Blackbaud if You have any questions about this agreement.

2. Ordering Procedures
   We will provide You access to Our Solutions and deliver the Services detailed in the applicable Order Form. The Order Form, along with its attachments, which may include statements of work for Services (each an “SOW”), constitutes the complete and entire agreement, and supersedes all other agreements between Us concerning Our Solutions. In the event of a conflict between this agreement, an Order Form, or an SOW, the following order of precedence shall apply: (i) Order Form; (ii) this agreement; (iii) SOW.

3. Subscription Access And Use
   a. Access. You and Your employees may access and use Subscriptions and Documentation for Your internal business purposes during the term set forth in the Order Form.
   b. Suspension; Acceptable Use Policy. We may suspend access to any Solution upon written notice if You fail to pay fees when due, violate this agreement, or violate Blackbaud’s AUP. Suspensions are rare and exercised in a manner proportionate to the severity of the violation. We agree to work with You in good faith to address any violations in a reasonable manner, to prevent similar violations, and to reinstate the affected Solutions as quickly as possible.

4. Fees, Expenses, And Payment
   The financial terms for the Solutions are set forth in the applicable Order Form.

5. Confidential Information
   a. Definitions. “Confidential Information” means (i) all information disclosed by one of Us ("Owner") to the other ("Recipient") electronically, visually, orally or in a tangible form which is either (a) marked as "confidential" (or with a similar legend), (b) is identified at the time of disclosure as being confidential, or (c) should be reasonably understood to be confidential or proprietary; (ii) the terms and/or existence of this agreement and the relationship between the parties, Our architecture, software, data, and technology that comprise the Solutions, Order Form(s), SOW(s), and any proposals or other documents that preceded this agreement; and (iii) donor, student, prospect and financial information. Recipient shall not obtain any rights, title, or interest in any Confidential Information of Owner. The obligations in (b) below shall not apply to information generally known to the public; information independently developed by Recipient without access to Confidential Information; information in the possession of Recipient without an obligation of confidentiality; or information required to be disclosed by court order or applicable law after Owner has been notified.
b. Treatment of Confidential Information. Recipient may only (i) use Owner's Confidential Information to carry out the purposes of this agreement; and (ii) disclose Owner's Confidential Information to those third parties operating under non-disclosure provisions no less restrictive than those set forth in this agreement and who have a justified business “need to know.” Recipient is responsible for any mistreatment of Confidential Information by such third parties. Recipient must protect Owner's Confidential Information using the same degree of care it uses to protect its own confidential and proprietary information, but in any case, not less than reasonable care, and protect such information in accordance with applicable laws. Upon termination of this agreement, Recipient must return or destroy all Owner Confidential Information in its possession or control, if feasible. If not destroyed, Recipient will continue to protect such information as required above.

6. Security

a. It takes both of Us to protect Your Data and Our Solutions. We have implemented and will maintain administrative, physical, and technical safeguards designed to: (i) protect against anticipated threats or hazards to the security of Your Confidential Information, and (ii) protect against unauthorized access to or use of Confidential Information that could materially harm You. Our technical safeguards include firewalls, virus and intrusion detection, and authentication protocols. In order to continually improve our safeguards, We reserve the right to make changes to the physical and technical safeguards, policies, and data security programs at any time, provided We will at all times maintain commercially reasonable information security procedures and standards. You and Blackbaud acknowledge that Solutions may include sending email and publishing web pages over the public Internet using SMTP or HTTP protocols, and that these standard protocols do not support many enhanced data security protections. In no case will the use of the public Internet in this manner be deemed to violate Our obligations under this Agreement. You commit to take commercially reasonable security precautions to prevent unauthorized or fraudulent use of Your Data and Our Solutions. Upon request and no more than once per year, You may obtain a copy of our most recent third party security audit summary report for the applicable Blackbaud Solutions from Support.

b. We have implemented commercially reasonable, written policies and procedures addressing potential Security Breaches and have a breach response plan in place.

c. Within seventy-two (72) hours of discovery, We will report to You any Security Breach affecting Your Confidential Information. “Security Breach” means unauthorized access, use, disclosure, modification, or destruction of Confidential Information. Security Breaches shall not include: (a) “pings” on an information system firewall; (b) port scans; (c) attempts to log on to an information system or enter a database with an invalid password or user name; (d) denial-of-service attacks that do not result in a server being taken offline; or (e) malware (e.g., a worm or virus) that does not result in unauthorized access, use, disclosure, modification, or destruction of Your Confidential Information.

d. In the event of a Security Breach, We will use commercially reasonable efforts to mitigate any negative consequences resulting directly from the Security Breach and will use commercially reasonable efforts to implement procedures to prevent the recurrence of a similar Security Breach.

e. We will use industry standard methods for the destruction of Your Confidential Information in accordance with Section 15(c) (Effect of Termination).

7. Your Obligations

Solutions may only be used or accessed from Your devices and systems that meet the System Requirements. You agree to administer and monitor the use of Your login IDs, passwords, and all accesses to the Solutions by Your employees pursuant to the instructions You will receive when Your Solutions are activated.
8. Indemnity

Each party shall indemnify and defend the other party against any third party claims to the extent arising from the indemnifying party's gross negligence or willful misconduct. You shall indemnify and defend Blackbaud against any third party claims to the extent arising from Your breach of the AUP or Your obligations under Section 7 above. The indemnified party shall give the indemnifying party prompt written notice of any claims for indemnification and the indemnified party agrees to relinquish control of defending any such claim to the indemnifying party, including the right to settle; provided however, that the indemnifying party will not settle any such suit or claim without the indemnified party's prior written consent if such settlement would be adverse to the indemnified party's interests. This section states the entire liability of each party with respect to any type of third party claim.

9. Representations, Warranties, And Disclaimer

a. Mutual Representations and Warranties. Each party represents and warrants that (i) it has the right and power to enter into this agreement, (ii) an authorized representative has accepted this agreement, and (iii) it will comply with all applicable laws and regulations pertaining to this agreement.

b. Blackbaud Limited Warranties. Solutions will materially perform pursuant to their then-current Documentation. All Services will be performed in a professional manner in accordance with industry standards. If You believe that a Solution fails to perform as described in the Documentation, You must notify Blackbaud in writing within thirty (30) days of the occurrence of the problem, and Blackbaud will use reasonable efforts to repair or replace the Solution without charge. If a Service has been improperly performed, You must notify Blackbaud in writing within thirty (30) days of the occurrence of the problem, and Blackbaud will reperform the Service without charge. The foregoing provides Your sole remedy for Solutions or Services that do not comply with the foregoing promise.

c. Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 9, BLACKBAUD EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY (BY ANY TERRITORY OR JURISDICTION) TO THE EXTENT PERMITTED BY LAW, AND FURTHER BLACKBAUD EXPRESSLY EXCLUDES ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY.

10. Limitation Of Liability

EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 8 AND YOUR PAYMENT OBLIGATIONS, EACH PARTY'S MAXIMUM LIABILITY TO THE OTHER PARTY FOR ANY ACTION ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN TORT OR CONTRACT, SHALL BE LIMITED TO THE GREATER OF (X) $25,000 OR (Y) THE AMOUNT OF FEES PAID OR PAYABLE BY YOU FOR THE SOLUTION FROM WHICH THE CLAIM AROSE DURING THE SIX (6) MONTHS PRECEDING THE CLAIM, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AND BLACKBAUD AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN.

11. Ownership

a. Your Ownership and License. You own Your data, Your Confidential Information and any artwork, logos, trade names, and trademarks that You provide to Blackbaud ("Your Data"), in order for Blackbaud to provide the Solutions. You grant to Blackbaud and its suppliers a nonexclusive, fully paid-up license to use, reproduce, store, modify, and display Your Data. Blackbaud may aggregate information from Your use of Solutions with information from other customers' use, and use and disclose such results on an aggregated and anonymized basis for any purpose provided We do not individually identify You, Your Confidential information, or Your use of Solutions.
b. Blackbaud Ownership and License. Subject to Your rights to Your Data set forth above, Blackbaud has all right, title, and interest in and to any expressions and results of Solutions, the work, findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, tools, applications, interfaces, enhancements, other technical information, and all derivatives of the foregoing created in connection with this agreement ("Work Product"). Blackbaud grants to You a none exclusive, fully paid-up license to use Work Product, solely to the extent necessary for You and Your end users to use Solutions in accordance with this agreement. If You provide any feedback, comments, suggestions, ideas, requests, or recommendations for modifications or improvements to Blackbaud, You hereby assign all right, title, and interest in any such feedback to Blackbaud to be used for any purpose. All rights not expressly granted to You hereunder are reserved by Blackbaud.

12. Notice

All notices or other communications sent pursuant to or in connection with this agreement shall be made in writing and sent to the applicable address set forth in the Order Form, or as designated from time to time in writing by either of Us. All notices shall be deemed given if delivered receipt confirmed using registered or certified first class mail, postage prepaid, or recognized courier delivery.

13. Force Majeure

Neither party shall be liable for any failure to perform its obligations under this agreement if prevented from doing so by a cause beyond such party's reasonable control.

14. Dispute Resolution; Governing Law

The parties agree to submit all unresolved disputes between them to arbitration administered by the American Arbitration Association ("AAA") and governed by the AAA Commercial Arbitration Rules then in effect, except that (a) either party may (i) seek injunctive relief for infringement of intellectual property rights or other proprietary rights in court or (ii) seek a determination as to whether a claim is arbitrable in court (the arbitrator may not rule on his or her own jurisdiction); and (b) Blackbaud may sue in court to collect unpaid amounts under this or any other agreement between Us. For all arbitrated matters, one arbitrator will be appointed under the AAA Commercial Rules, and the locale of arbitration will be Atlanta, Georgia, unless the parties mutually agree to another locale before appointment of the arbitrator. YOU AND BLACKBAUD EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING ARISING UNDER OR RELATED TO THIS AGREEMENT. This agreement is governed by the laws of the State of New York, excluding choice of law principles.

15. Term And Termination

a. Term. The term of this agreement commences on the Effective Date and continues until terminated pursuant to this Section 15 or until the expiration of the current term if cancelled in accordance with an Order Form.

b. Default. Either party may terminate this agreement if the other party materially defaults in performing its obligations under this agreement and the default remains uncured for at least thirty (30) days following receipt of written notice from the party requesting termination, and immediately by Blackbaud upon written notice for Your failure to pay undisputed invoices when due. In addition, this agreement may be terminated by Blackbaud upon written notice if You make an assignment for the benefit of creditors by You or dissolve Your entity.

c. Effect of Termination. Upon termination of this agreement or termination of a Solution, Blackbaud may immediately cease providing the terminated Solution(s). If Blackbaud has Your Data in its possession upon termination, to the extent technologically feasible, Blackbaud will provide You with a copy of Your Data in its then-standard database format. If Blackbaud creates archive copies of Your Data during the course of performing its obligations under this agreement, You agree that Blackbaud may retain such copies following termination subject to Blackbaud's internal practices for record destruction. All earned and unpaid fees and expenses are due upon termination.
16. Statutory Exception

If You are a qualified public educational or government institution, any part of this agreement which may be invalid or unenforceable against You because of applicable state or federal law (example: all or part of the Indemnity section) shall be deemed invalid or unenforceable, as the case may be, and instead construed in a manner most consistent with applicable governing law. If required by law this agreement will be governed by applicable state or federal law.

17. General

Except as specifically stated herein, remedies are cumulative. No failure or delay in enforcing any term or exercising any option shall be construed as a waiver unless agreed to in writing by Us. If any provision of this agreement is held to be unenforceable, the other provisions shall remain in full force and effect. No purchase order or other ordering document that purports to modify or supplement the printed text of this agreement or any attached or referenced document shall add to or vary the terms of this agreement. All proposed modifications to this agreement, Order Form(s) or SOW(s) are objected to and deemed material unless otherwise mutually agreed to in writing. Order Forms may be executed electronically, and in counterparts, which together form one legal instrument. A copy of an executed Order Form and any purchases within a Solution and made by reliable means, including electronic acceptance, shall be considered an original. You may not assign Your rights or obligations under this agreement without Our written consent. Blackbaud performs its obligations under this agreement as an independent contractor, not as Your employee, partner, or agent. Sections 3(b), 4, 5, 8, 9, 10, 11, 12, 14, 15, 17 and 18 survive the termination of this Agreement. You have accepted this agreement by the signing of an Order Form by Your duly authorized officer or officer representative.

18. Definitions

- “AUP” means Blackbaud’s acceptable use policy located at https://www.blackbaud.com/company/acceptable-use-policy, as updated from time to time by Blackbaud.
- “Blackbaud”, “Our”, and “We” mean Blackbaud, Inc. and its affiliates and subsidiaries.
- “Documentation” means applicable manuals and documentation that Blackbaud generally provides or makes available for Solutions.
- “Effective Date” means the date of Your signature on the Order Form.
- “Order Form” means the Blackbaud order form signed by You (electronically or otherwise) and accepted by Blackbaud setting forth the Solutions You have ordered.
- “Services” means services provided by Blackbaud other than Subscriptions that are pursuant to an Order Form (and SOW if applicable) and may include professional, consulting, or training services.
- “Solutions” means Subscriptions and Services collectively.
- “Subscription” means any Blackbaud subscriptions, including maintenance, support, application services and payment services provided by Blackbaud pursuant to an Order Form.
- “System Requirements” means the requirements set forth at https://www.blackbaud.com/systemrequirements, as updated from time to time by Blackbaud.
- “Us” means Blackbaud and You collectively.
- “You” and “Your” mean the client set forth on the Order Form.
1. **Family Educational Rights and Privacy Act.** To the extent Blackbaud has access to confidential student education records as that term is used in the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("Records") in connection with the licensing of its Solutions, Blackbaud shall: (i) treat all Your information in compliance with all applicable federal and state laws; and (ii) implement and use any and all reasonable means and appropriate safeguards to prevent the use or disclosure of Records and notify You promptly in the event of any unauthorized use or disclosure of Records.

2. **Number of Scholarship Opportunities.** In the Award Management system, You may create up to the number of scholarship or other student aid opportunities indicated on the Order Form. If You request to create additional scholarship or other student aid opportunities within the Award Management system, Blackbaud will determine an adjusted annual Service Fee based on the number of additional opportunities being created.

3. **Number of Conditional Applications.** With Award Management Connect, You may use up to five (5) Conditional Applications within the Award Management system. With Award Management Advance, You may use up to ten (10) Conditional Applications. With Award Management Engage, You may use up to twenty (20) Conditional Applications.

4. **Custom Administrative Roles.** With Award Management Connect, You may use up to three (3) Customer Administrative Roles within the Award Management system. With Award Management Advance, You may use up to five (5) Custom Administrative Roles. With Award Management Engage, You may use up to ten (10) Custom Administrative Roles.

5. **Training Services.** We will provide a comprehensive one-time training session in the use and maintenance of the Award Management and Stewardship Management systems for a limited number of Your staff. This one-time training will be conducted remotely via web conference.

6. **Technical Support Services.** We will provide technical support to a limited number of individuals, indicated on the Order Form, that are specified by You. Normal technical support hours will be 9:00 am - 5:00 pm central time, Monday-Friday, excluding certain nationally recognized holidays. Additionally, a 24-hour, 7-day a week toll free telephone number will be available for the reporting of emergency situations. Online support materials are also available 24 hours a day and 7 days a week.
7. **Applicant Profile Information Imports.** College and University customers: You may import applicant profile information from Your student information system into the Award Management system for each student who logs into the Award Management system and verifies his or her account. Upon request and at no additional charge to You, Blackbaud will create an automated data import routine to import applicant profile information from Your student information system into the Award Management system. If You utilize an automated data import routine, You will be responsible for providing Blackbaud with a data file that has no more than one hundred and fifty (150) columns of data in CSV (comma separated values) format prior to the execution of the routine. Regardless of whether You import applicant profile information manually or through an automated data import routine, You may import a file of applicant profile information that has no more than one hundred and fifty (150) columns of data into the Award Management system no more than one time per calendar day.

Create Users Upon Import Service: If requested, Blackbaud can provide You with the ability to import and activate applicant profile information into the Award Management system for Your entire student population without requiring each student to log into the Award Management system to verify his or her account. Upon Your request for this additional service, Blackbaud will determine an adjusted annual Service Fee based on the size of Your student population.

With this service, You will have the ability to import applicant profile information from Your student information system into the Award Management system for up to the number of students indicated on the Order Form without requiring those students to log into the Award Management system to verify their accounts.
1  BLACKBAUD PROFESSIONAL SERVICES

This Statement of Work ("SOW") outlines the deliverables, parameters, and costs for the delivery of services ("Engagement") for Blackbaud Award Management. This SOW accompanies the Blackbaud Solutions Agreement ("BSA"); all of the terms and conditions of the BSA apply.

1.1  Overview

The goal of this project is to ensure the successful implementation of the Blackbaud Award Management. The Blackbaud Award Management Implementation includes the following:

1. Configuration and launch of the Award Management System with the guidance of your Blackbaud Project Manager
2. Comprehensive training for your System Administrators, including access to Blackbaud University, which contains a series of online articles and recorded videos on system functionality

The goal of the Award Management Implementation is to provide a fully configured solution that is intuitive and easy to navigate for all system users including administrators, applicants and reviewers. During the implementation process we will make "best practice" suggestions to improve system usability, while still ensuring that we are meeting your goals and objectives.

1.2  Deliverables

The information below describes the tasks that Blackbaud will perform for the Client.

<table>
<thead>
<tr>
<th>Area</th>
<th>Description</th>
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<tbody>
<tr>
<td>Project Preparation</td>
<td>1. Confirm your team’s overall readiness to begin the implementation process</td>
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<tr>
<td></td>
<td>2. Establish the project timeline and blackout dates</td>
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<td></td>
<td>3. Watch/attend introductory training webinars</td>
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<td></td>
<td>4. Provide a list of scholarship opportunities to load into your AW system via the Opportunity Worksheet</td>
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<td></td>
<td>5. If applicable, you will provide necessary technical details for authentication process (LDAP, SAML, or Shibboleth)</td>
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<td></td>
<td>6. If applicable, you will provide a student data import file from your student information system</td>
</tr>
<tr>
<td>Design</td>
<td>1. Attend kickoff call with your Business Analyst to confirm all Onboarding items are complete, and review the project timeline</td>
</tr>
<tr>
<td></td>
<td>2. Discuss your scholarship awarding process end-to-end and suggest best practice recommendations</td>
</tr>
<tr>
<td>Area</td>
<td>Description</td>
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<td>------------------------------------------</td>
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</tbody>
</table>
| System Configuration and Administration  | 1. Watch/attend system configuration trainings  
2. With guidance from your project manager, you will configure your General Application as well as any Conditional Applications you may want to use.  
3. You will configure all scholarship opportunities with appropriate Qualification Criteria. | |
| Award Management Functional Configuration| When all main configuration tasks are completed, Blackbaud will guide you through the following functional areas in the AcademicWorks System:  

**Awarding and Post-Acceptance:**  
1. Best practices for Review Committee setup  
2. Review of the Scholarship Awarding Process  
3. Collecting Donor Acknowledgements or “Thank You” letters  

**Launch Preparations and Site-Wide Settings:**  
1. Best practices for Applicant Instructions  
2. Review default Email Template verbiage and settings  
3. Conduct system testing with students and verify site configurations are correct  
4. Make adjustments to your scholarship opportunity details (start/end dates, award amounts, renewal settings, etc)  

**Additional/Optional Focus Areas:**  
1. Award Reporting  
2. Custom User Roles  
3. Visibility Settings and Scopes  
4. Donor Profiles  
5. Donor Stewardship Reports (Engage package) |

### 1.3 Professional and Consulting Services Terms

Blackbaud Professional and Consulting Services Terms includes

- Services Billing Terms
- Services Engagement Project Start
• Placing Services Projects On Hold
• Expiration of Services
• Change Orders
• Exchange and Cancellations as it Relates to Services
• Deliverable Acceptance Procedures

2 ASSUMPTIONS & CLIENT RESPONSIBILITIES

The performance of Services, timing, resources and fees associated with this SOW are based on the assumptions and Client responsibilities set forth below. Should any of these assumptions not be fully realized or should Client fail to timely perform its responsibilities below and elsewhere in this SOW, a Change Order shall be required resulting in adjustment of the fees, expenses, and schedule associated with this SOW.

1. Client shall provide resources to fill the following core roles:
   
a. Primary Contact, who will work with the Blackbaud Project Manager to co-ordinate meeting resources, assist with task planning, help resolve issues / manage risk, provide feedback for initiative prioritization, assist with roadmap production and ensure that appropriate management approvals are obtained in a timely manner.
   
b. Business and Technical Subject Matter Experts as reasonably required to attend various sessions. They will provide knowledge and insight into the data, processes and tools for each activity being investigated. Additionally, Client resources will be available as reasonably required to provide follow up materials and answer questions after sessions have concluded, and provide feedback on associated Deliverables.

2. Client shall make all service requests covered in this SOW with a reasonable lead time in advance of the deadline. Lead times will vary depending on the nature of the request. The Blackbaud Project Manager and Client will work together to develop mutually agreed-upon timelines for work requests.

3. Client will cooperate with Blackbaud in taking actions and executing documents, as appropriate, to achieve the objectives of this SOW. Client agrees that Blackbaud’s performance is dependent on Client's timely and effective cooperation with Blackbaud. Accordingly, Client acknowledges that any delay by Client may result in Blackbaud being released from an obligation or scheduled deadline or in Client having to pay additional fees for Blackbaud's agreement to meet a specific obligation or deadline despite the delay.

4. Client is responsible for the completeness and correctness of all documentation presented to Blackbaud, and shall verify the accuracy of completeness of the information provided.

5. Client’s business leaders will be responsible for timely decision making, critical issue resolution, and efforts to promote this Professional Services engagement internally.

6. Blackbaud is not responsible for any modification made to any Deliverable by Client or a third party.

7. Completion of deliverables assumes Client resources (e.g., business leaders, team members, IT resources, business Subject Matter Experts (SME), etc.) are available to support activities such as workshops, meetings, review sessions, etc. If Business SMEs cannot provide adequate time, the Deliverable schedule and activities are subject to change.

8. Implementation services do not include any travel-related expenses, which will be billed as incurred.
9. As part of this services SOW, no custom solutions have been delivered. Custom Solutions are not covered by the standard scope of Customer Support. The scope of support for Blackbaud solutions can be found at www.blackbaud.com/terms
The following terms apply for all customers purchasing Professional and Consulting Services. The billing terms herein apply unless otherwise set forth in the applicable Order Form.

Services Billing Terms

a. Time and Material Services
   - (T&M) Services will be billed monthly based on the hours entered by the project team
   - Change Orders are requested and approved by You, and may impact scope, hours, and cost, thereby adjusting services terms accordingly

b. Managed Services and Retained Services
   - Unless otherwise stated on the Order Form, ongoing Services will be billed monthly upon the Effective Date and continue in effect for the term of the agreement
   - Change Orders are approved by You, and may impact scope and cost, thereby adjusting Services terms accordingly

c. Fixed Price Engagement (FPE) Services
   - FPE Services less than or equal to 80 hours will be billed 50% upon the Effective Date, and the remaining 50% ninety (90) days thereafter
   - FPE Services greater than eighty 80 hours but less than or equal to 2,000 hours, will be billed in four payments as follows:
     i. 30% at project start
     ii. 30% at delivery of Business Requirements Document by Us to You
     iii. 30% at completion of project work by Us
     iv. 10% at project closure by Us
   - FPE Services greater than 2,000 hours will default to the above standard FPE milestones and billing terms unless otherwise stated in the Order Form or otherwise mutually agreed upon prior to project start

Services Engagement Project Start

Pricing afforded to You is on the condition that You are prepared to start the Services, for engagements with fewer than 2,000 hours, within sixty (60) days of the Effective Date unless otherwise detailed in the Statement of Work (SOW). If you do not physically start project within this time, Services shall be considered “on hold” and are subject to the terms of the next section. It is understood that Services engagements greater than 2,000 hours may require custom project timelines and start dates which will be mutually agreed upon.
Placing Services Projects On Hold

One-to-One Services Model - If the project has started and You request the Services work be placed on hold for a period greater than thirty (30) days, or You are not prepared to start or continue work, or the Services work has defaulted to an on hold status due to a non-start, You agree to pay a "hold" fee equal to 20% of total Services fees in addition to the total Services fees. The "hold" fee is to ensure that Our resources are available when the project resumes. The first "hold" fee will be due thirty (30) days after the project goes on hold and shall be due for each subsequent thirty (30) days that work does not resume, in earnest, unless otherwise stated in the SOW.

Cohort Model - If the project is delivered in a Cohort model and You have confirmed a Cohort session, You may reschedule that session within five (5) business days without penalty. After five (5) business days, that session will be considered cancelled and is subject to the applicable cancellation terms outlined herein.

Expiration of Services

Services shall expire and all Services fees paid by You will be retained by Blackbaud if Services are not started within one year of the Effective Date.

Change Orders

Blackbaud shall perform the Services specified in the SOW. Change Orders may be executed based on substantial and material changes to the Services defined in the SOW and any Services or changes not specifically included in the SOW will require a duly executed and mutually agreed upon Change Order prior to any changes being implemented.

a. All T&M Services are estimated and subject to a 10% variance without requiring a Change Order

b. Any change to the Services defined in the SOW that are due to Your failure to fulfill responsibilities and assumptions set forth in the SOW will require a Change Order

c. Any and all properly executed Change Order(s) are subject to the terms of the Blackbaud Solutions Agreement

d. A Change Order will document:
   • The change in the SOW
   • Additional Services to be delivered and resources required
   • Additional estimated fees (if applicable)

e. Activities outlined in Change Orders will be billed at standard hourly rates

BILLABLE WORK

The following activities are examples of billable work and have been factored into the professional and consulting Services estimate provided as part of your contract:

✓ Resource Coordination
✓ Project related meetings and communications
✓ Project planning, managing, and status reporting
Exchange and Cancellations as it Relates to Services

If You cancel or exchange Services for any reason, You agree to pay for:

a. FPE, Managed Services, and Retained Services—all Services work already performed by Us, any related non-recoverable travel expense, and a re-scheduling fee of 20% of total contracted project fees

b. T&M—all work performed to date up to but not exceeding the T&M hours expended as of time of cancellation, any related non-recoverable travel expense, and any T&M hours needed to restore said systems/work

c. Capital expenditure, third party vendor or other non-Services costs incurred by Us, and billable to You under terms of the Order Form or SOW

Deliverables Acceptance

Unless otherwise stated in Your SOW, deliverables are subject to these Acceptance Procedures. A Deliverable is defined as a tangible item produced as part of the services project. Once Blackbaud delivers a Deliverable, Blackbaud will make the Deliverable available to You for review, and You must accept or reject the Deliverable within a defined time period. Deliverable Acceptance Procedures apply only to Deliverables for which Blackbaud is responsible as defined in the project’s SOW or Project Schedule.

a. You will provide an adequate number of resources to review Deliverable to confirm conformity in all material respects based on mutually agreed upon requirements and specifications

b. You will provide written notice of acceptance or rejection within ten (10) business days of delivery. Deliverables which are not rejected by You within the above time period shall be deemed accepted.

c. An acceptance timeframe beyond the initial ten (10) day period may be agreed upon by Us and documented in the Project Schedule

These Blackbaud Professional and Consulting Services Terms are subject to change in Blackbaud’s sole discretion. In the event of any such change, Blackbaud shall post a revision of these Terms at http://www.blackbaud.com/terms and Your continued use Professional and Consulting Services shall be subject to such revised terms.