

Blackbaud Payment Services

Addendum

1. Blackbaud Payment Services (“BBPS”):

BBPS will store Payment Card Industry -- Data Security Standard (“PCI”) regulated credit card data and transmit such data to Blackbaud approved Payment Gateways and Payment Processors. Client will retain “tokens” in their product application database, thereby, simplifying processing through Payment Gateways. BBPS will be provided in accordance with the BBPS Service Levels attached hereto as Exhibit C. Blackbaud may only use Client data related to online transactions (“Data”) to perform its obligations with respect to BBPS; however, Blackbaud may also aggregate such Data with other Client data for statistical analysis and reporting.

2. BBPS Options:

A credit card payment “gateway” services provider (a “**Payment Gateway**”) and a payment processor (a “**Payment Processor**”) are required in order to process credit card and bank card transactions. Client may purchase and select a BBPS option (through a Blackbaud product or other permissible means) as follows:

- a) **Blackbaud Merchant Services (“BBMS”):** Blackbaud provides contracted services for a Payment Gateway and Payment Processors. BBMS subject to the BBMS Exhibit attached hereto as Exhibit A, as amended from time to time.
- b) **Third-Party Merchant Services with Blackbaud Gateway Option:** For clients not choosing BBMS, Blackbaud provides a Payment Vaulting/Gateway interconnect to an approved Third-Party Payment Gateway provider and supported Third-Party Payment Processors. Client is responsible for directly engaging and contracting with a Blackbaud approved Payment Gateway and Payment Processor. The Blackbaud Gateway Interconnect Option is subject to the Exhibit attached hereto Third-Party as Exhibit B, as amended from time to time.

3. Client Responsibilities: To use BBPS, Client must:

- a) Purchase and manage a Blackbaud approved Payment Gateway and/or Payment Processor; including the establishment of merchant account that may be necessary for Client payment processing utilizing the Blackbaud software subject to the applicable software subscription or license agreement for a Blackbaud product (“**License Agreement**”).
- b) Purchase and remain current in one of Blackbaud’s Software Maintenance and Support Programs for application software using BBPS, including the purchase and payments related to Client’s selection of a BBPS option.
- c) Identify, and name, an appropriate individual, with corresponding contact information, including electronic mail address, as “**Primary Contact**” for BBPS with whom Blackbaud shall communicate on all matters regarding BBPS, such as maintenance notifications, and who has the authority to make BBPS requests including release of all Client data, both internally to Blackbaud and to the Client, restoration of data, and other configuration changes. If no Primary Contact is identified by Client, the individual already on file in Blackbaud’s internal system as the Client contact for Client’s BBPS Blackbaud product shall be deemed the Primary Contact for BBPS.

- d) Administer security within the product applications (e.g., the granting of rights to a user for a specific form in the application). Client is also responsible for maintaining its user desktops and providing users' network access to BBPS.
- e) Provide connectivity and security to the Internet for its location(s) for purposes of providing adequate access from Client's licensed Blackbaud product(s) and application(s) or to BBPS's secure platform.
- f) Comply with industry "best practice" standards to ensure reasonable security for integration between applications at the Client site and BBPS.
- g) Advise Blackbaud in advance of any changes to Client's operations, banking relationships, Primary Contact, or other information that would require a change in the support, operation, or configuration of the hosted applications.
- h) Use BBPS only for its own business purposes, and not use for load testing, sell or otherwise provide, directly or indirectly, use of BBPS or any portion thereof to any third party.
- i) Be solely responsible for its PCI compliance related to its own handling of credit card data.
- j) Ensure that none of its products or services (excluding any Blackbaud products) used in conjunction with BBPS infringe the intellectual property rights of any third party.
- k) Comply with all applicable laws, rules, and regulations including, without limitation, laws regarding privacy and protection of consumer data; and, comply with the Visa Cardholder Information Security Program and all other applicable rules of card associations, including, without limitation, American Express®, MasterCard®, and Visa®.
- l) Maintain and observe all reasonably necessary security measures to protect its systems, including without limitation the Blackbaud Software and the data contained therein from unauthorized control, tampering, or any other unauthorized access, including, without limitation, compliance with the Visa Cardholder Information Security Program, if applicable. For the purposes of this Section "**Blackbaud Software**" means the computer systems operated by or on behalf of Client that capture or store end user data, or that transmits end user data to the Payment Gateway.
- m) Provide all disclosures to and obtain all consents from each end-user prior to transmitting such end-user information to BBPS and the selected Payment Gateway required by the card associations and applicable law.

4. Acceptable Use Policy:

Use of BBPS is subject to Blackbaud's Acceptable Use Policy located at <http://www.blackbaud.com/aupolicy.aspx>, as amended from time to time.

5. Term and Termination; Effect of Termination:

Other than as may be set forth herein, the term of the BBPS shall be coterminous with the term of the applicable License or Subscription Agreement. However, Client may terminate BBPS at any time upon thirty (30) days notice to Blackbaud. Such request will result in termination of BBPS. Where so requested by a Client in writing in connection with termination of BBPS, Blackbaud will provide the Client with its BBPS credit card related data at a time in a manner prescribed by Blackbaud to ensure compliance with PCI regulations. Client may incur additional fees related thereto, and agrees to pay Blackbaud on a time-and-materials basis for such services. Client further agrees to indemnify Blackbaud and execute such further documentation as determined by Blackbaud in connection therewith. Client may reinstate BBPS but may incur additional fees in connection therewith. Client shall be responsible for any and all chargebacks, refunds and any other fees associated with payment services following termination of BBPS. Blackbaud reserves the right to change, replace or terminate the services of any third party Payment Gateway upon thirty (30) days notice to Client. In the event of replacement of a Payment Gateway, Client understands and agrees that it may be required to execute additional terms and conditions associated therewith.

6. Mutual Representations and Warranties:

Each party warrants that: (i) it has the right and power to accept the terms of this Addendum, (ii) an authorized representative has accepted the terms of this Addendum, and (iii) it will comply with any applicable laws and regulations pertaining to this Addendum and the provision and/or use of BBPS. Blackbaud warrants that BBPS will be performed in a professional and workmanlike manner in accordance with recognized industry standards. Blackbaud and its suppliers exercise no control whatsoever over the content of the information passing through their systems. OTHER THAN AS SPECIFICALLY SET FORTH HEREIN, BLACKBAUD EXPRESSLY DISCLAIMS ALL REPRESENTATIONS OR 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 (EXCEPT AS SPECIFICALLY PROVIDED), TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY TO THE EXTENT PERMITTED BY LAW.

7. PCI Compliance Indemnity; Limitation of Liability:

Blackbaud shall indemnify and hold harmless its Client from and against any third party claim including costs and reasonable attorney's fees, in which a Client is named as a result of the failure of Blackbaud to maintain BBPS as PCI compliant. This indemnification obligation is contingent upon the Client providing Blackbaud with prompt written notice of such claim, information, all reasonable assistance in the defense of such action, and sole authority to defend or settle such claim. This indemnification obligation is further limited to an amount not to exceed \$1,000,000. EXCEPT FOR THE INDEMNIFICATION PROVIDED IN THIS SECTION 7, BLACKBAUD SHALL HAVE NO LIABILITY FOR ANY ACTION ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN TORT OR CONTRACT AND IN NO EVENT SHALL BLACKBAUD BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST PROFITS, HOWEVER ARISING, EVEN IF BLACKBAUD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN.

8. Terms Subject to Change:

These terms are subject to change in Blackbaud's sole discretion. In the event of any such change, Blackbaud will post a revision of this Addendum at <http://www.blackbaud.com/files/bbms/bbpstc.pdf> and Client's continued use of BBPS shall be subject to such revised terms. Client shall have the right to terminate its use of BBPS in the event of any material adverse changes made pursuant to this Section in accordance with Section 5 above.

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EXHIBIT A, BBMS EXHIBIT

Blackbaud Merchant Services allow you to accept payments that may include processing cards bearing the trademarks of Visa®, MasterCard®, Discover®, and American Express® (collectively, the “Networks”). Blackbaud is not a bank, and does not offer banking services as defined by the United States Department of Treasury. Blackbaud also does not offer Money Service Business (“MSB”) services as defined by the United States Department of Treasury. As a merchant payment processor, Blackbaud processes payments you receive from your constituents. In order to serve in this role, we must enter into agreements with Networks, other processors and banks. These third parties require our BBMS customers to enter into Sub-Merchant Agreement with Blackbaud’s payment processor of record, as set forth in Section 1 below.

1. Sub-Merchant Agreement: Use of BBMS requires Client’s acceptance of the relevant Sub-Merchant Agreements:

Chase Paymentech-Submitter Merchant Agreement (https://www.blackbaud.com/files/paymenttech_ppig_aggreement.pdf)

Wells Fargo Bank-Sub-Merchant Processing Agreement (https://www.blackbaud.com/files/FD-Wells_smp_agreement.pdf)

First Data Canada-Sub-Merchant Processing Agreement (https://www.blackbaud.com/files/FD-Canada_smp_agreement.pdf)

2. BBMS Processing Fees: The processing fees applicable to BBMS (“**BBMS Processing Fees**”) are at www.blackbaud.com/bbms/bbms-tier1.aspx, as may be amended from time to time. Any changes to the BBMS Processing Fees shall take effect thirty (30) days following the posting of any such changes or updates. BBMS Processing Fees shall apply to all online financial transactions conducted by Client through the use of BBPS (including without limitation, credit card, debit card and ACH transactions).

3. Disbursements: Blackbaud will disburse to Client funds processed through BBMS, without any interest accrued thereon less any refunds, chargebacks and all applicable fees (including without limitation, BBMS Processing Fees and/or License Agreement transaction related fees). For BBMS-Sphere, such funds shall be disbursed within seven (7) business days of the close of each disbursement cycle for BBMS-Sphere, such cycles running (i) the first through the fifteenth of each month, and (ii) the sixteenth through the last day of each month. For BBMS (all other products), such funds shall be disbursed within five (5) business days of the close of each disbursement cycle, such cycles running: (i) the first through the seventh of each month; (ii) the eighth through the fifteenth of each month; (iii) the sixteenth through the twenty-second of each month; and (iv) the twenty-third through the end of each month.

4. Client Direct Deposit ACH Form: Client shall provide Blackbaud with a completed Authorization Agreement for Direct Deposits (ACH Credits) with corresponding Clients’ Taxpayer Identification Number (TIN) to enable Blackbaud to make electronic deposits of funds raised into Client’s bank account per Client’s disbursement instructions. Blackbaud reserves the right to hold on Client’s behalf any such funds collected via BBMS until the Client provides such completed direct deposit form. Client agrees that Blackbaud has the right without prior notice to debit client’s bank account and client hereby authorizes such debiting of their bank account for the full amount of any negative or debit balance, including but not limited to chargebacks and reversals, if at the end of any disbursement cycle, there is a negative or debit balance in client’s BBMS account.

5. Reconciliation and Charge Backs: Blackbaud shall perform daily internal reconciliations and provide chargeback management services in preparation for preparing statements and payment disbursements to Client. Client is responsible for its individual transaction reconciliations for each disbursement period. Client is responsible for payment of all chargebacks and associated chargeback fees of any kind whatsoever against any and all merchant accounts established by Blackbaud for the purpose of consummating financial transactions conducted on behalf of Client through Blackbaud’s product(s). For any negative balance including but not limited to refunds/charge backs, Blackbaud reserves the right to offset against disbursements or if no disbursement to offset, debit the Clients bank account. If Blackbaud is unable to collect on Client refunds/chargebacks using offset or debit, Blackbaud reserves the right to invoice Client any unpaid balance shall be subject to the lesser of twelve percent (12%) annual interest or the highest interest allowable under applicable laws. Blackbaud’s BBMS and BBMS-Sphere currently have a per transaction limit of \$50,000 and \$25,000 respectively.

6. Trust Account: For Clients using BBPS/BBMS to process USD Transactions the Client understands and agrees that the certain Trust Account Agreement dated as of June 29, 2011 (the “Trust Agreement”) between Blackbaud, Inc. and Wells Fargo Bank, National Association (the “Trustee”) shall govern the Trust Account that will be used for the deposit and disbursement of Client’s funds processed using Blackbaud Merchant Services. The Client hereby agrees to the terms set forth in the [Intended Beneficiary Disclosures](#), and specifically acknowledges that Blackbaud, Inc. has the right to direct payment of funds from the Trust Account created under the Trust Agreement (and the Trustee shall be entitled to rely on such direction from Blackbaud, Inc.), including payments to the undersigned and similarly situated customers of Blackbaud, Inc., the fees and expenses of Blackbaud, Inc., and certain other fees, charges, and expenses. The undersigned specifically acknowledges and agrees that (1) the Trustee has no duty to determine whether payments requested from the Trust Account by Blackbaud, Inc. are in proper amounts or for appropriate purposes, (2) the Trustee makes no representations or warranties as to the treatment of the Trust Account in the event of any voluntary or involuntary bankruptcy, insolvency, reorganization, wind-up, or composition or adjustment of debts of Blackbaud, Inc. and (3) the Trustee cannot guarantee the timely receipt of funds by the undersigned in the event that the Trustee fails to receive directions from Blackbaud, Inc. or a back-up servicer with respect to funds in the Trust Account or if of funds from the Trust Account.

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EXHIBIT B, THIRD-PARTY MERCHANT SERVICES WITH BLACKBAUD GATEWAY OPTION EXHIBIT

1. **Third-Party Gateway and Processor Option:** Client will be required to sign Third-Party provided gateway agreements to obtain gateway services directly from approved Third-Party gateway providers. A list of currently available supported Third-Party gateway providers can be found at www.blackbaud.com/bbms/bbms-tier3.aspx. Any changes to such list shall be posted by Blackbaud or otherwise provided to customers with thirty (30) days advance notice. Client further understands and agrees that Client is obligated to separately engage a Third-Party Payment Processor, subject to Blackbaud approval.
2. **Gateway Interconnect Fees/Rates:** The applicable Payment Gateway interconnect fees and rates (“**Interconnect Fees**”) are located at www.blackbaud.com/bbms/bbms-tier3.aspx, as may be amended from time to time. Any changes to such Interconnect Fees shall take effect thirty (30) days following the posting of any such changes or updates.
3. **Disbursements, Reconciliation & Charge backs:** All fund disbursements, reconciliations, and charge backs shall be the sole responsibility of Client and their selected Third-Party contracted providers and Blackbaud shall have no liability therefore.
4. **LUMINATE APPLICATION CLIENTS ONLY:** For existing Clients of Luminare Application Services who continue to utilize the pre-established PAYFLOW PRO gateway interface, Client acknowledges and agrees that the following terms will apply to such use <http://www.convio.com/Terms/Payment/Gateway/Terms/Paypal/2011/>.” Existing and future Luminare Application Clients that wish to add any additional gateway accounts must purchase the gateway directly from the third party provider (including PayFlow Pro gateway) and be subject to the terms and fees associated with this Addendum.

EXHIBIT C, BBPS SERVICE LEVELS

1. Blackbaud will install and operate BBPS at load balanced, mirrored, highly available, secure locations using fully redundant equipment and networks and monitor traffic, security and performance 24x7 to insure availability, capacity, security, and bandwidth.
2. Blackbaud will provide secure, encrypted access, via the Internet, to the BBPS systems from currently supported versions of Client's licensed Blackbaud product(s), from Blackbaud hosting facilities (the "**Hosting Sites**") on a 24x7 basis, except for scheduled system downtime for back-ups or other on-going maintenance as required and scheduled in advance by Blackbaud. Blackbaud and/or its vendor(s) may perform system maintenance during the following "**BBPS Maintenance Windows**", and Blackbaud will announce all planned upgrades and outages in advance as follows:
 - a) "**BBPS Critical Maintenance Window**" – Nightly between 10 p.m. and 12 midnight EDT/EST with no less than one (1) hour advance notice for application of critical security or software updates,
 - b) "**BBPS Standard Maintenance Window**" – Sunday mornings between 3 a.m. and 7 a.m. EDT/EST, and Tuesday and Thursday between 11pm and 3am EDT/EST with forty-eight (48) hours advance notice,
 - c) "**BBPS Extended Maintenance Window**" – Sunday morning between 3am and 12:00 noon EDT/EST with thirty (30) days advance notice.

BBPS Maintenance Windows start and end times set forth herein may be amended to within two hours, with the same duration, upon thirty (30) days advance notice to Client. Notifications of scheduled system downtime and/or system maintenance shall be delivered to the Primary Contact via electronic mail. Client understands and agrees that there may be instances where Blackbaud needs to interrupt the Services without notice in order to protect the integrity of the Services due to security issues, virus attacks, spam issues or other unforeseen circumstances.

3. BBPS has a 99.9% availability rate, calculated on a monthly basis. In the event Client does not have access to its BBPS account ("**Downtime**") for more than four (4) hours during any calendar day (other than as a result of schedule system downtime and/or system maintenance), Client's sole and exclusive remedy and Blackbaud's sole and exclusive liability for Downtime shall be for Client to receive a credit in the amount equal to 1/365 of the Annual Fee for Support and Maintenance paid by Client during the applicable calendar year (each such amount a "**Credit Unit**"). Such Credit Units shall be applied on Client's next occurring invoice following the month in which such Credit Unit was incurred. Blackbaud will use an internal system to measure whether BBPS is available. Client agrees that Blackbaud's internal system will be the sole basis for resolution of any dispute that may arise between Client and Blackbaud regarding BBPS service levels, and further agrees not to implement or contract for any other 3rd party monitoring software, services or applications.
4. Blackbaud provides and retains fully restorable, data backups of encrypted BBPS databases as follows:

Backup Type	Retention	Location
Nightly	1 week	On-Site
Weekly	4 weeks	Off-Site
Monthly	6 months	Off-Site
5. Blackbaud will install minor upgrades/releases of BBPS software as they are made available at no charge for the term of the Agreement. Blackbaud will determine and announce all planned upgrades as described above.

6. Upgrades to major application releases (e.g. 7.x to 8.x) and related conversions in BBPS requires careful planning and data decisions that must be managed jointly by Client and Blackbaud, and may require the purchase of other BBPS-related SKUs, and the engagement of Blackbaud consulting services which will be contracted via separate agreement. Software installation of major releases will be performed by Blackbaud on a mutually agreed upon schedule not to exceed one (1) year after a major release of the software at no additional charge for the term of the Agreement, provided Client is a current maintenance customer. Additional services related to conversions to major releases (e.g. data conversion, report and software customizations, data cleanup, and payment gateway/payment processing services purchased directly with a Third-Party provider) are outside the scope of this Addendum.

7. Customer Support hours of operation for BBPS will be provided in accordance to the Maintenance Service Plan and corresponding Scope of Support based on the subscribed level of Maintenance for the application software utilizing BBPS.

8. Blackbaud will monitor performance indicators on the systems and network infrastructure (its own and that of third party vendors) in order to gauge the overall performance of BBPS, and will take reasonable steps to address systems and network infrastructure as required to maintain application performance.

9. Blackbaud will operate BBPS in accordance with PCI standards.