

# Blackbaud Payment Services

## Addendum

### 1. Blackbaud Payment Services (“BBPS”).

BBPS will collect, transmit, and store credit card data for processing of payments with Blackbaud approved Payment Gateways and Payment Processors (as such terms are defined in Section 2. BBPS Options below) in accordance with the Payment Card Industry Data Security Standard (“PCI DSS”). Client will retain “tokens” in its product application database to simplify processing through Payment Gateways. Blackbaud will provide BBPS in accordance with the service levels described in “Exhibit C, BBPS Service Levels”. Blackbaud will use the cardholder and online financial transactions data of Client (“Data”) only in the performance of BBPS; provided, however, Blackbaud may use the Data (in an aggregate form) combined with the data of other Blackbaud clients for statistical analysis and reporting.

### 2. BBPS Options.

A credit card payment “gateway” services provider (a “Payment Gateway”) and a credit card payment processor (a “Payment Processor”) are required to process credit card and bank card transactions. Client processing payments with BBPS agrees to purchase one or more of the following BBPS options:

- a) Blackbaud Merchant Services (“BBMS”): Blackbaud provides contracted services for a Payment Gateway and Payment Processors in accordance with “Exhibit A, BBMS”.  
or
- b) Third-Party Merchant Services with Blackbaud Gateway Interconnect Option (“Blackbaud Gateway Interconnect Option”): Blackbaud provides a payment vaulting/gateway interconnect to an approved third-party Payment Gateway and supported third-party Payment Processors in accordance with “Exhibit B, Third-Party Merchant Services with Blackbaud Gateway Interconnect Option”. Client is responsible for directly engaging and contracting with a Blackbaud approved Payment Gateway and Payment Processor.

### 3. Client Responsibilities.

To use BBPS, Client must:

- a) Purchase either BBMS or Blackbaud Gateway Interconnect Option and, in each case, establish and maintain a merchant account for payment processing for the Blackbaud Products set forth in the Agreement.
- b) Maintain active status in a Blackbaud Software Maintenance and Support Program for purchased application software using BBPS which includes the maintenance and support of Client’s selected BBPS option.
- c) Identify to Blackbaud (by providing name and contact information including electronic mail address) the “Primary Contact” for BBPS (i) who has the authority to make BBPS related requests including release of Client data, restoration of data, and other configuration changes and (ii) with whom Blackbaud will communicate on BBPS related matters including maintenance notifications. If a Primary Contact is not properly identified by Client to Blackbaud, Blackbaud shall have the right to deem Client’s contact for this Agreement (or an individual

- previously identified by Client to Blackbaud, if applicable) as Client's "Primary Contact".
- d) Administer security within the product applications (e.g., granting of rights to a user for a specific form in the applications). Client is also responsible for maintaining its users' desktops and providing users with network access to BBPS.
  - e) Provide connectivity and secure access to the Internet for Client's locations to provide adequate access from Client's Blackbaud Products or to BBPS's secure platform.
  - f) Use commercially reasonable precautions to ensure 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) (i) Use BBPS only for its own legitimate business purposes, (ii) not use BBPS for load testing, and (iii) not sell or provide, directly or indirectly, any portion of BBPS to any third party.
  - i) Maintain PCI DSS compliance.
  - j) Ensure that any Client's products or services (excluding any Blackbaud Products) used in conjunction with BBPS do not infringe any intellectual property rights of any third party.
  - k) Comply with all applicable laws, rules, and regulations including 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 American Express®, MasterCard®, and Visa®.
  - l) Maintain and observe all commercially reasonable security measures to protect its systems, including the Blackbaud Software and the data contained therein, from unauthorized control, tampering, or other unauthorized access, including 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, in each case as required by the card associations and applicable law, prior to transmitting information relating to such end user to BBPS and the relevant Payment Gateway.

#### 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 of BBPS.

BBPS shall be provided during the term of the Agreement. Each of Blackbaud and Client may terminate BBPS for any or no reason at any time upon 30 days' written notice to the other party. Upon such termination, Client may make written request to Blackbaud for available stored Data. If Blackbaud provides such Data to Client, Client will be required to (a) accept terms associated with the retrieval and delivery of such Data including any security procedures which Blackbaud determines are required by PCI DSS and (b) be responsible for paying to Blackbaud the cost of such services (on a time and material basis). Client shall be responsible for any and all chargebacks, refunds, and any other fees associated with payment services following termination of BBPS. Client may reinstate BBPS but may incur additional fees to do so.

#### 6. Change, Replacement, or Termination of Third-Party Payment Gateway.

Blackbaud reserves the right to change, replace, or terminate the services of any third-party Payment Gateway upon 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 with such a replacement.

#### 7. PCI Compliance Indemnity; Limitation of Liability.

The following provisions shall apply in addition to the terms set forth in Section 10 of the Agreement: (a) Blackbaud shall indemnify and defend

Client against any third-party claim arising from Blackbaud's failure to maintain BBPS in compliance with PCI DSS. This Section states the entire liability of Blackbaud with respect to any such third-party claim. Client shall give Blackbaud prompt written notice of any such claims for indemnification and Client agrees to relinquish control of defending any such claim to Blackbaud, including the right to settle. Subject to Section 10.a. of the Agreement, the maximum liability of Blackbaud to Client for the indemnification obligations set forth in this Section is \$1,000,000. (b) For the avoidance of doubt, Blackbaud shall not be liable to Client, whether by way of indemnity or by reason of breach of contract or in tort, or on any other legal or equitable basis, for the loss of any donations by donors to Client that may be suffered by Client. The parties agree that any such losses are indirect or consequential damages, liability for which is specifically excluded under Section 10.a. of the Agreement.

### **8. Client is not a Third Party Beneficiary.**

Nothing in this Addendum, express or implied, is intended to or shall confer to Client or any other person any right, benefit, or remedy of any nature whatsoever under Blackbaud's contracts with third parties including Payment Gateways, Payment Processors, or Networks (as defined below).

### **9. Background Inquiries.**

Client gives Blackbaud permission to make inquiries about Client and to obtain information about Client as may be necessary to enable Blackbaud to verify Client's identity as required from time to time by anti-money laundering laws, other applicable laws and Blackbaud's internal procedures relating to "know your client" and creditworthiness background checks. Client acknowledges that Client's business information may contain personal information about individuals related to Client and that if Client is located outside of the U.S., Blackbaud's background inquiry procedures may require such personal information be transferred into the U.S.

### **10. Terms Subject to Change.**

The terms of this Blackbaud Payment Services Addendum (including the Exhibits attached hereto) are subject to change in Blackbaud's sole discretion. In the event of any such change, Blackbaud shall 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.

Continued

## EXHIBIT A, BBMS

BBMS allow you to accept payments via credit card, debit card, and ACH transactions including processing cards bearing the trademarks of Visa®, MasterCard®, Discover®, and American Express® (collectively, the “**Networks**”). Blackbaud is not a depository institution and does not offer banking services as defined by the United States Department of Treasury. Blackbaud also does not offer Money Service Business 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 Blackbaud’s BBMS customers to enter into a Sub-Merchant Agreement with Blackbaud’s payment processor of record, as set forth in Section 1 below.

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

Wells Fargo Bank-Sub-Merchant Processing Agreement ([https://www.blackbaud.com/files/FD-Wells\\_smp\\_agreement.pdf](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](https://www.blackbaud.com/files/FD-Canada_smp_agreement.pdf))

**2. Background Checks:** Use of BBMS requires Client to provide information about Client as may be necessary to enable Blackbaud to verify Client’s identity including, if applicable, verification of Client’s ownership of its bank account(s) that may be used for payment purposes including deposit of processed funds as required from time to time by anti-money laundering laws, other applicable laws and Blackbaud’s internal procedures relating to “know your client” and creditworthiness background checks.

**3. BBMS Processing Fees:** The processing fees applicable to BBMS (“**BBMS Processing Fees**”) are located at [www.blackbaud.com/bbms/bbms-tier1.aspx](http://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 30 days following the posting of any such changes. BBMS Processing Fees shall apply to all online financial transactions conducted by Client through the use of BBPS (including credit card, debit card, and ACH transactions).

**4. Disbursements:** Blackbaud will disburse to Client funds processed through BBMS, interest free, less any refunds, chargebacks, and any applicable fees (including BBMS Processing Fees and/or transaction fees related to Blackbaud Products, if applicable). Funds processed through BBMS for all Blackbaud Products other than Blackbaud Sphere shall be disbursed within five business days of the close of the following disbursement cycles: (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. Funds processed through BBMS for Blackbaud Sphere shall be disbursed within seven business days of the close of the following disbursement cycles: (i) the first through the fifteenth of each month, and (ii) the sixteenth through the last day of each month. Blackbaud may suspend or delay disbursements to Client in order to protect Blackbaud and Client against the risk of, among other things, existing, potential or anticipated chargebacks, fraud or Client’s failure to fulfill Client’s responsibilities set forth in this Addendum.

**5. Client Direct Deposit ACH Form:** Client shall provide Blackbaud with a completed Authorization Agreement for Direct Deposits (ACH Credits) with Client’s Taxpayer Identification Number (TIN) to permit Blackbaud to make deposits to Client’s bank account in accordance with Client’s disbursement instructions. Blackbaud reserves the right to hold on Client’s behalf any funds collected using BBMS until Client provides such completed Authorization Agreement to Blackbaud and the verification of Client’s depository bank account used in connection with BBMS.

**6. Reconciliation and Charge Backs; Debit of Client Account:** Blackbaud shall perform daily internal reconciliations and provide chargeback management services in connection with delivering statements and payment disbursements to Client. Client is responsible for its individual

transaction reconciliations for each disbursement cycle. Client is responsible for payment of all chargebacks and associated fees of any kind whatsoever against any merchant account established by Blackbaud for the purpose of consummating financial transactions conducted on behalf of Client through Blackbaud Products. For any negative transactions including refunds/chargebacks, Blackbaud reserves the right to offset such negative transactions against disbursements to Client, or if any disbursement is less than such offset, debit the Client's bank account the balance of such offset. Client agrees that Blackbaud may, without prior notice to Client, debit Client's bank account for the full amount of any negative or debit balance including chargebacks and reversals if at the end of any disbursement cycle there is a negative or debit balance in Client's BBMS account. If Blackbaud is unable to collect on Client refunds/chargebacks using offset of Client's disbursement or debit of Client's bank account, Blackbaud shall have the right to invoice Client any unpaid balance which shall be subject to the lesser of twelve percent (12%) annual interest or the highest interest allowable under applicable law.

**7. Transaction Limits:** Unless otherwise pre-approved in writing by Blackbaud, BBMS for all Blackbaud Products other than Blackbaud Sphere currently have a per transaction limit of \$50,000. BBMS for Blackbaud Sphere currently have a per transaction limit of \$25,000.

**8. Trust Account:** If Client is using BBMS to process transactions in U.S. dollars, Client understands and agrees that the certain Trust Account Agreement dated as of June 29, 2011 (the "**Trust Agreement**") between Blackbaud 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 BBMS. Client agrees to the terms set forth in the Intended Beneficiary Disclosures located at <https://www.blackbaud.com/bbms/bbms-ibd.aspx>, and specifically acknowledges that Blackbaud 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), including payments to Client and similarly situated customers of Blackbaud, the fees and expenses of Blackbaud, and certain other fees, charges, and expenses. Client specifically acknowledges and agrees that (i) the Trustee has no duty to determine whether payments requested from the Trust Account by Blackbaud are in proper amounts or for appropriate purposes, (ii) 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 and (iii) the Trustee cannot guarantee the timely receipt of funds by the undersigned in the event that the Trustee fails to receive directions from Blackbaud or a back-up servicer with respect to funds in the Trust Account or if there is a legal proceeding which seeks to stop or delay the disbursement of funds from the Trust Account.

#### **9. Reserve.**

Client acknowledges that in addition to other rights afforded to Blackbaud under the Agreement, Blackbaud, after providing reasonable prior written notice to Client, may establish a reserve account to satisfy any delinquent obligation of Client under any agreement between Client and Blackbaud (the "**Reserve Account**"). Blackbaud may (but is not required to) apply funds in the Reserve Account toward, and may set off any funds that would otherwise be payable to Client against, the satisfaction of any amounts which are or become due from Client pursuant to any such agreements. The Reserve Account will not bear interest, and Client will have no right or interest in the funds in the Reserve Account; provided that upon satisfaction of all of Client's obligations under such agreements, Blackbaud will pay to Client any funds then remaining in the Reserve Account. Any funds in the Reserve Account may be commingled with other funds, and need not be maintained in a separate account. The parties' rights and obligations under this Section shall survive the termination of the Agreement.

Continued

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

- 1. Third-Party Gateway and Processor Option:** Client will be required to enter into an agreement to obtain “gateway” services directly from a Blackbaud approved third-party Payment Gateway. A list of currently approved third-party Payment Gateways can be found at [www.blackbaud.com/bbms/bbms-tier3.aspx](http://www.blackbaud.com/bbms/bbms-tier3.aspx), as may be amended from time to time. Any changes to such list shall take effect 30 days following the posting of any such changes. Client further understands and agrees that Client is obligated to separately engage a Blackbaud approved third-party Payment Processor.
- 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](http://www.blackbaud.com/bbms/bbms-tier3.aspx), as may be amended from time to time. Any changes to such Interconnect Fees shall take effect 30 days following the posting of any such changes.
- 3. Disbursements, Reconciliation and Chargebacks:** All fund disbursements, reconciliations, and chargebacks shall be the sole responsibility of Client and the third-party Payment Gateway and third-party Payment Processor which Client has engaged. Blackbaud shall have no liability relating to any such disbursement, reconciliations, and chargebacks.
- 4. Luminate Application Clients Only:** For any existing Client of Luminate Application Services who continue to use the pre-established PAYFLOW PRO gateway interface, Client acknowledges and agrees that the terms and conditions located at <http://www.convio.com/Terms/Payment/Gateway/Terms/Paypal/2011/> will apply to such use. Any existing or future Client of Luminate Application Services who desires to add any additional gateway accounts must purchase such accounts directly from the third-party Payment Gateway (including PayFlow Pro gateway) and be subject to the terms and fees associated with this Addendum.
- 5. onBoard and onMessage Clients Only:** Clients using onBoard or onMessage with contracts in effect on or before August 1, 2015, will have Interconnect Fees waived through the end of their contract. Interconnect Fees will begin being assessed at the time the client’s contract renews. Clients using Blackbaud Merchant Services are not charged Interconnect Fees.

Continued

## 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 will monitor traffic, security, and performance on a 24x7 basis to ensure 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 Blackbaud Products, from Blackbaud hosting facilities on a 24x7 basis, except for scheduled system downtime for maintenance as required and scheduled in advance by Blackbaud. Blackbaud and its vendors may perform system maintenance during the following "**BBPS Maintenance Windows**", and Blackbaud will announce all planned upgrades and outages in advance as follows:

"**BBPS Critical Maintenance Window**" – Nightly between 10 p.m. and 12 midnight EDT/EST with at least one hour advance notice for application of critical security or software updates;

"**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 at least 72 hours' advance notice; and

"**BBPS Extended Maintenance Window**" – Sunday morning between 3 a.m. and 12:00 noon EDT/EST with at least 30 days' advance notice.

BBPS Maintenance Windows start and end times set forth above may be adjusted back or forward by two hours, with the same duration, upon 30 days' advance notice to Client. Blackbaud shall deliver notifications of scheduled system downtime and/or system maintenance to the Primary Contact via electronic mail. Client understands and agrees that there may be instances where Blackbaud needs to interrupt BBMS without notice in order to protect the integrity of BBMS due to security issues, virus attacks, spam issues, or other unforeseen circumstances.

3. BBPS will have 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 hours during any calendar day (other than as a result of scheduled system downtime and/or system maintenance), Client's sole and exclusive remedy and Blackbaud's sole and exclusive liability for Downtime shall be a credit to Client in an 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**"). Credit Units shall be reflected and applied on Client's monthly invoice for the month following the month in which a Credit Unit was credited to Client. 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 third-party monitoring software, services, or applications for the purpose of monitoring Downtime.

4. Blackbaud will perform and retain 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 become available at no charge for the term of the Agreement. Blackbaud will determine and announce all planned upgrades as described above.
6. 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 Blackbaud Product using BBPS.
7. Blackbaud will monitor performance indicators on the systems and network infrastructure (its own and those 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.
8. Blackbaud will operate BBPS in accordance with PCI DSS.