

# Smart Tuition

## Addendum



**Appointment of Agent.** You hereby appoint Smart Tuition as its limited agent for the purpose of billing and accepting payments from its Families (“Family” or “Families”) on Your behalf. School agrees to enroll Families in the Smart Tuition program.

**Smart Tuition Payment Services Addendum.** You agree that Your use of Smart Tuition Payment Services shall be governed by the Smart Tuition Payment Services Addendum attached hereto.

**Payments Received from Families.** You further agree that payment made by a Family to Smart Tuition acting on Your behalf shall be considered the same as a payment made directly to You, and You shall treat such Family as if payment has been received. You shall have no recourse against any Family for any amounts received by Smart Tuition from such Family. You understand that Smart Tuition provides only for the remittance of funds paid by Families and does not guarantee the payment of such funds until such time as funds are received by Smart Tuition from Families.

**Authorized Representatives.** Our service representatives are instructed to provide information to, and accept instructions from, only Your employees who have been specifically authorized by You in writing to work with Us. Our representatives are also instructed to share payment and delinquency information only with the parent(s) or guardian(s) named on the Family account.

**Privacy.** We may collect information when You visit Our site through the use of cookies. We also receive and record information on our server logs from Your browser including your IP address, cookie information and the page(s) you have visited.

**Processing Delays.** We will exercise reasonable care to ensure no delay in processing payments; however, We are not liable for any failure to perform Our obligations if prevented from doing so by a cause(s) beyond Our reasonable control.

**Family Bankruptcy.** Upon notification of a bankruptcy involving a Family, We will forward the applicable notice to You and take no further action to collect the debt in accordance with applicable laws.

**Family Refunds.** Smart Tuition does not issue refunds to Families. Overpayments will be carried on to Family accounts and credited to future tuition payments. All reimbursements or refunds must be arranged by You in accordance with Your refund policy.

**Partial Year Participation.** Our administrative fee (“Administrative Fees” or “Administrative Fees”) are due upon enrollment or account activation and is deemed to be fully earned at that time. Administrative Fees are non-refundable. For customers that choose to display the Administrative Fee to Families, We deduct this Administrative Fee upon Family enrollment. If School does not display the Administrative Fee to Families, We deduct the Administrative Fee upon account creation from Your next remittance. If You decide to withdraw from Our program during a school year after submitting enrollments or creating accounts for that school year, you may

instruct Us to close all plans; however, any Administrative Fees collected will be retained by Us.

**Low Participation Schools.** We require that You provide a minimum of 50 Families who pay the Administrative Fee each School Year. In the event that fewer than 50 Families pay tuition through Us, You will be assessed an Administrative Fee of \$50 multiplied by the number of Families to reach the required minimum of 50 Families. This amount will be calculated and deducted from amounts due to You in March of each year and will be reflected on Your School Remittance Report.

**End of Year Outstanding Balances.** At the end of each school year, You may wish to zero-out accounts with outstanding balances or add those balances to the following school year's accounts. Fees due to Us, however, should not be eliminated. We reserve the right to continue attempts to collect Our Fees.

**Standard Funds Transfers.** We transfer funds on the 5th, 10th, 15th, 20th, 25th, and 30th of each month. Banks can take several business days to notify Us if the transfers are successful, which is why We transfer funds between 5-10 days after a payment has been processed. Please keep in mind that if a funds transfer date falls on a weekend or a holiday, We will transfer funds the business day prior to such weekend or holiday. We will send You via email a monthly calendar of funds transfer dates based on processing dates and banking holidays.

**Interest on Accounts.** No interest shall be paid or earned by You, Your students, or tuition payers with respect to any funds We may hold on Your or Their behalf.

### **Regulatory and Legal Requirements.**

You shall ensure that Your tuition program complies with all federal, state, and local laws and regulations. We make no representations or warranties regarding the applicability of such laws to Your tuition program, including without limitation, the Truth in Lending Act, the Equal Credit Opportunity Act, and the Fair Debt Collection Practices Act. You are also responsible for collecting and paying all required local or state taxes on purchased items sold through any Smart Tuition module.

You represent and warrant that (a) You will provide to Blackbaud only those telephone numbers which You have received consent required under applicable law to call and (b) that You will notify Blackbaud all revocations of such consent and all reassigned numbers. You agree to indemnify and defend Blackbaud for any third party claim arising out of a breach of the foregoing representation and warranty.

**Fees.** The following fees apply to Your Smart Tuition Subscription:

#### **Administrative Fees**

##### *Display Schools*

For "Display" schools that reveal Our Administrative Fee to Families, the Administrative Fee is due from the Family upon first payment.

##### *Non-Display Schools*

If You do not display Our Administrative Fee to Families, We will withhold the corresponding Administrative Fee from the School upon first remittance after the payer's first payment. Any Administrative Fee that goes unpaid will be withheld on the last remittance in November.

Administrative Fee Amounts: We charge a standard \$50.00 for any payment plan with two or more months. For single-payment annual plans with no additional fees or payments billed or collected, We collect a standard annual Administrative Fee of \$20.00. These Administrative Fees are due upon enrollment. Families who have already paid-in-full prior to You sending in their enrollment forms (Schools may choose to track all Families on Smart Tuition for bookkeeping purposes) are charged a bookkeeping fee ("Bookkeeping Fee"). This Bookkeeping Fee is withheld

from Your next transfer from Us. Administrative Fees are non-refundable.

**Payments Sent Directly to Smart Tuition:** When a Family sends a payment directly to Us, Our Administrative Fee is withheld in the same remittance that includes the Family's payment, if Our Administrative Fee is not paid during the enrollment (or re-enrollment) process.

**In-School Payments:** If a payment is made directly to You and posted as an In-School payment, Our Administrative Fee will be withheld from the next scheduled remittance, if Our Administrative Fee is not paid during the enrollment (or re-enrollment) process.

**Paid-in-Full Accounts:** In some cases, You may wish to include accounts on Our system that have been paid in full. Once these accounts have been established, Our Administrative Fee will be withheld from the next scheduled remittance. As outlined above, if two or more invoices are sent to a Paid-in-Full Family for tuition or fees, the \$50.00 Administrative Fee applies. The balance of Our Administrative Fee will be withheld from the next scheduled remittance.

### **Standard Returned or Failed Payment Fees**

We pass on charges to cover the additional processing fees and costs associated with failed payments. Our fees for failed electronic check payments and for returned checks are:

Failed ACH - \$30.00  
Returned Check - \$30.00

### **Credit Card Processing Fees**

Our credit card processing fee is 2.85% of the payment amount ("Credit Card Processing Fee" or "Credit Card Processing Fees"). We can accept VISA™, MasterCard™, American Express™, and Discover™ credit and debit cards on Your behalf. When a Family pays by credit or debit card, a Processing Fee will apply.

We provide the following options for Credit Card Processing Fees:

*Option 1: You absorb Credit Card Processing Fees.* You offer credit card payments and You absorb the 2.85% Credit Card Processing Fees per transaction. Payments received via credit cards are disbursed to You net of the Credit Card Processing Fees.

*Option 2: Credit card payments not offered.* You can elect to not offer payments in the form of credit or debit cards, and rather accept only mail-in and electronic payments from checking accounts and savings accounts.

*Option 3: Credit Card Processing Fees paid by cardholders\*.* You can elect for the Credit Card Processing Fees of 2.85% on credit card payments to be assessed to the paying cardholder.

\*Please be advised that charging a cardholder a fee for processing payment via credit or debit card is regulated in some states. We advise You to consult your legal counsel as you consider accepting credit or debit card payments.

### **Follow Up Fee and School Late Fee**

#### *Standard Follow Up Fee*

A \$40.00 "Follow Up Fee" will be charged when a Family has missed a payment. We will contact the late Family via phone and/or email and will charge a \$40.00 Follow Up Fee for this service of reminding the Family and collecting payment on the account.

Any payment that is not posted to Our account by the applicable due date is considered late and will

receive a "Late Fee". Late Fees will be assessed to accounts with an outstanding balance of any kind (fees or tuition). Late Fees are assessed the day after a Family misses its due date. A maximum of one Late Fee will be assessed to a delinquent account per month.

You may waive Late Fees as You deem appropriate by reversing Our Follow Up Fee for a maximum of 10% of the number of Families that they have enrolled in the program. For example, if You have 300 plans on Our system, You will be able to reverse 30 Follow Up Fees during the school year.

#### *School Late Fee*

If We have agreed to collect Late Fees on Your behalf, You may determine the amount and adjust the amount prior to the beginning of each school year. We will remit Your Late Fee to You on regularly scheduled remittance dates.



# Smart Tuition Payment Services

## Addendum

### 1. Smart Tuition Payment Services (STPS).

STPS will collect, transmit, and store credit card and ACH data for processing of payments with Smart Tuition approved Payment Gateways and Payment Processors in accordance with the Payment Card Industry Data Security Standard ("PCI DSS"). Smart Tuition provides contracted services for a Payment Gateway and Payment Processors in accordance with "Exhibit A, STPS".

### 2. Client Responsibilities.

To use STPS, Client must:

- a) Advise Smart Tuition 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.
- b) Ensure ACH entries (automatic debits) are bound by the NACHA Operating Agreement and may not violate U.S. Law.
- c) Ensure the signed or similarly authenticated ACH debit authorization, other than those completed within the Smart Tuition online enrollment is retained for a period of two years following the termination or revocation of the authorization, and be able to provide original, printed, or electronic reproduction that accurately reflects the information to a requesting Depository Financial Institution within ten (10) banking days of the request.
- d) (i) Use STPS only for its own legitimate business purposes, (ii) not use STPS for load testing, and (iii) not sell or provide, directly or indirectly, any portion of STPS to any third party.
- e) Maintain PCI DSS compliance.
- f) Ensure that any Client's products or services (excluding any Smart Tuition Products) used in conjunction with STPS do not infringe any intellectual property rights of any third party.
- g) 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®, Discover®, and Visa®.
- h) Maintain and observe all commercially reasonable security measures to protect its systems, including the Smart Tuition 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, "Smart Tuition 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.
- i) 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 STPS and the relevant Payment Gateway.

### 3. Acceptable Use Policy.

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



#### **4. Term and Termination of STPS.**

STPS shall be provided during the term of the Agreement. Smart Tuition and Client may terminate STPS for any or no reason upon one thirty (30) days written notice to the other party. Upon such termination, Client may make written request to Smart Tuition for available stored Data. If Smart Tuition 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 Smart Tuition determines are required by PCI DSS and (b) be responsible for paying to Smart Tuition 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 STPS. Client may reinstate STPS but may incur additional fees to do so.

#### **5. 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) Smart Tuition shall indemnify and defend Client against any third party claim arising from Smart Tuition's failure to maintain STPS in compliance with PCI DSS. This Section states the entire liability of Smart Tuition with respect to any such third party claim. Client shall give Smart Tuition prompt written notice of any such claims for indemnification and Client agrees to relinquish control of defending any such claim to Smart Tuition, including the right to settle. The maximum liability of Smart Tuition to Client for the indemnification obligations set forth in this Section is \$1,000,000. (b) For the avoidance of doubt, Smart Tuition 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 payments 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 this Addendum and the Agreement.

#### **6. 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 Smart Tuition's contracts with third parties including Payment Gateways, Payment Processors, or Networks (as defined below).

#### **7. Background Inquiries.**

Client gives Smart Tuition permission to make inquiries about Client and to obtain information about Client as may be necessary to enable Smart Tuition to verify Client's identity as required from time to time by anti-money laundering laws, other applicable laws and Smart Tuition'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., Smart Tuition's background inquiry procedures may require such personal information be transferred into the U.S.

#### **8. Terms Subject to Change.**

The terms of this Smart Tuition Payment Services Addendum (including the Exhibits attached hereto) are subject to change in Smart Tuition's sole discretion. In the event of any such change, Smart Tuition shall notify You and post a revision of this Addendum in the Smart Tuition Operating Manual located in the Resources section of <https://school.smarttuition.com> and Client's continued use of STPS shall be subject to such revised terms.



## EXHIBIT A, STPS

STPS allows 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**”). Smart Tuition is not a depository institution and does not offer banking services as defined by the United States Department of Treasury. Smart Tuition also does not offer Money Service Business services as defined by the United States Department of Treasury. As a merchant payment processor, Smart Tuition 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 Smart Tuition’s STPS customers to enter into a Sub-Merchant Agreement with Smart Tuition’s payment processor of record, as set forth in Section 1 below.

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

Agreements: Vantiv LLC Sub-Merchant Processing Agreement ([Vantiv](#)).

Stripe Sub-Merchant Processing Agreement (<https://stripe.com/us/blackbaud/legal>)

American Express® Merchant Operating Guide ([www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide))

**2. Background Checks:** Use of STPS requires Client to provide information about Client as may be necessary to enable Smart Tuition 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 Smart Tuition’s internal procedures relating to “know your client” and creditworthiness background checks.

**3. STPS Processing Fees:** The processing fees applicable to STPS (“**STPS Processing Fees**”) are outlined in the Participation Agreement, and may be amended from time to time. Any changes to the STPS Processing Fees shall take effect 30 days following the posting of any such changes. STPS Processing Fees shall apply to all online financial transactions conducted by Client through the use of STPS (including credit card, debit card, and ACH transactions).

**4. Disbursements:** Smart Tuition may suspend or delay disbursements to Client in order to protect Smart Tuition 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 Smart Tuition with a completed Authorization Agreement for Direct Deposits (ACH Credits) with Client’s Taxpayer Identification Number (TIN) to permit Smart Tuition to make deposits to Client’s bank account in accordance with Client’s disbursement instructions. Smart Tuition reserves the right to hold on Client’s behalf any funds collected using STPS until Client provides such completed Authorization Agreement to Smart Tuition and the verification of Client’s depository bank account used in connection with STPS.

**6. Reconciliation and Charge Backs; Debit of Client Account:** Smart Tuition shall perform daily internal reconciliations. 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 Smart Tuition for the purpose of consummating financial transactions conducted on behalf of Client through Smart Tuition Products. For any negative transactions including refunds/chargebacks, Smart Tuition 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 Smart Tuition 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 STPS account. If Smart Tuition is unable to collect on Client refunds/chargebacks using offset of Client's disbursement or debit of Client's bank account, Smart Tuition 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 Smart Tuition, STPS currently has a per transaction limit of \$150,000.

**8. Reserve:** Client acknowledges that in addition to other rights afforded to Smart Tuition under the Agreement, Smart Tuition, 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 Smart Tuition (the "**Reserve Account**"). Smart Tuition 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, Smart Tuition 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.