

UNION COLLEGE  
AFFINITY AGREEMENT

This Agreement is entered into as of this 17<sup>th</sup> day of April, 1997 (the "Effective Date") by and between MBNA AMERICA BANK, N.A., a national banking association having its principal place of business in Newark, Delaware ("MBNA America"), and UNION COLLEGE, having its principal place of business in Schenectady, New York ("UC") for themselves, and their respective successors and assigns.

1. DEFINITIONS

When used in this Agreement,

- (a) "Agreement" means this agreement and Schedules A, B and C (W-9 tax identification form).
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program.
- (c) "Customer" means any Member who is a participant in the Program.
- (d) "Financial Service Products" means credit card programs, and debit card programs which have a credit feature.
- (e) "Mailing Lists" means updated and current lists and/or magnetic tapes (in a format agreed upon by the parties) containing names, postal addresses and, when available, telephone numbers of Members segmented by zip codes or reasonably selected membership characteristics.
- (f) "Member" means alumni of Union College and/or other potential participants mutually agreed to by UC and MBNA America.
- (g) "Program" means those programs and services of the Financial Service Products MBNA America agrees to offer pursuant to this Agreement to the Members from time to time.
- (h) "Royalties" means the compensation set forth in Schedule B.
- (i) "Identity Marks" means any design, image, visual representation, graphic pictorial, logo, service mark, trade dress, trade name, or trademark used or acquired by UC during the term of this Agreement.

2. RIGHTS AND RESPONSIBILITIES OF UNION COLLEGE

- (a) UC agrees that during the term of this Agreement: (i) it will endorse the Program exclusively and will not sponsor, advertise, aid, develop or solicit any Financial Service Products of any organization other than MBNA America; and (ii) it will not license or allow others to license the Identity Marks in relation to or for promoting any Financial Service Products of any entity other than MBNA America; and it will not sell, rent or otherwise make available or allow

others to sell, rent or otherwise make available any of its mailing lists or information about any current or potential Members in relation to or for promoting any Financial Service Products of any entity other than MBNA America.

(b) UC agrees to provide MBNA America with such information and assistance as may be reasonably requested by MBNA America in connection with the Program.

(c) UC authorizes MBNA America to solicit its Members by mail, direct promotion, advertisements and/or telephone for participation in the Program.

(d) UC shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain UC's Identity Marks; such approval shall not be unreasonably withheld or delayed.

(e) Upon the request of MBNA America, but no more than once every twelve (12) months, UC shall provide MBNA America with Mailing Lists free of any charge. The Mailing List shall contain at least thirteen thousand (13,000) names with corresponding postal addresses and, when available, telephone numbers.

(f) UC shall only provide information to or otherwise communicate with Members or potential Members about the Program with MBNA America's prior written approval, except for current advertising and solicitation materials provided by MBNA America to UC. Notwithstanding the above, UC may respond to individual inquiries about the Program from its Members on an individual basis, provided that said responses are accurate and consistent with the materials provided by MBNA America to UC. UC shall make every reasonable effort to forward to MBNA America any correspondence received by UC that is intended for MBNA America (e.g., applications, payments, billing inquiries) by overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by MBNA America.

(g) UC hereby grants MBNA America and its affiliates a limited, exclusive license to use UC's name and/or other Identity Marks solely in conjunction with the Program, including the promotion thereof. This license shall be transferred upon permitted assignment of this Agreement. This license shall remain in effect for the duration of this Agreement and shall apply to the Identity Marks, notwithstanding the transfer of such Identity Marks by operation of law or otherwise to any permitted successor, corporation, organization or individual. Nothing stated in this Agreement prohibits UC from granting to other persons a license to use the Identity Marks in conjunction with the providing of any other service or product, except for any Financial Service Products.

### 3. RIGHTS AND RESPONSIBILITIES OF MBNA AMERICA

(a) MBNA America shall design, develop and administer the Program for the Members.

(b) Subject to UC's right of prior written approval in Section 2(d), MBNA America shall design all advertising, solicitation and promotional materials with regard to the Program. MBNA

America reserves the right of prior written approval of all advertising and solicitation materials concerning or related to the Program, which may be developed by or on behalf of UC.

(c) MBNA America shall bear all costs of producing and mailing materials for the Program.

(d) MBNA America shall make all credit decisions and shall bear all credit risks with respect to each Customer's account(s) independently of UC.

(e) MBNA America shall use the Mailing Lists provided pursuant to this Agreement consistent with this Agreement and shall not permit those entities handling these Mailing Lists to use them for any other purpose. MBNA America shall have the right to designate Members on these Mailing Lists to whom promotional material will not be sent. These Mailing Lists are and shall remain the sole property of UC. However, MBNA America may maintain separately all information which it obtains as a result of an account relationship or an application for an account relationship. This information becomes a part of MBNA America's own files and shall not be subject to this Agreement; provided however that MBNA America will not use this separate information in a manner that would imply an endorsement by UC. Notwithstanding anything to the contrary herein, if UC notifies MBNA America that an individual listed on the Mailing Lists does not want to be solicited, MBNA America will honor such request and shall cease and desist from soliciting business from that individual.

#### 4. REPRESENTATIONS AND WARRANTIES

(a) UC and MBNA America each represents and warrants to the other that as of the Effective Date and throughout the term of this Agreement:

(i) It is duly organized, validly existing and in good standing.

(ii) It has all necessary power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

(iii) This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(iv) No consent, approval or authorization from any third party is required in connection with the execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.

(v) The execution, delivery and performance of this Agreement by such party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such party.

(b) UC represents and warrants to MBNA America that, as of the date hereof and throughout the term of this Agreement, it has the right and power to license the use of its name and other Identity Marks. The name "Union College" constitutes an identity mark owned by The Trustees of Union College In The Town Of Schenectady In The State Of New York (the "Trustees") and

is entitled to protection under common law. Except as otherwise provided herein, the Trustees retain all rights, title, and interest provided under law regarding the use of the name "Union College" and its other Identity Marks including, but not limited to, designs, images, visual representations, graphics, pictorials, logo's servicemarks, traddress, tradenames, and trademarks associated therewith.

## 5. ROYALTIES

(a) During the term of this Agreement, MBNA America shall pay Royalties to UC. Royalties will not be paid without a completed Schedule C. Except as otherwise provided in Schedule B, payment of Royalties then due shall be made approximately forty-five (45) days after the end of each calendar quarter.

(b) On or before the forty fifth (45th) day after the end of each calendar quarter during the term of this Agreement, MBNA America will provide UC with a statement showing the number of Credit Card Accounts opened, the number of Credit Card Accounts renewed and the retail purchase dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar period. Upon termination of this Agreement, on or before the sixtieth (60th) day after the end of term, MBNA America shall provide UC with a final statement.

## 6. PROGRAM ADJUSTMENTS

A summary of the current features of the Program are set forth in Schedule A. MBNA America reserves the right to make periodic adjustments to the Program and its terms and features. Delaware and applicable federal law currently require each open-end credit account Customer be given the opportunity to reject a proposed change and pay the existing balance under the prior terms if the proposed adjustment increases the fees or finance charges on such account.

## 7. CONFIDENTIALITY OF AGREEMENT

The terms of this Agreement, any proposal, financial information and proprietary information provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other party to any other person or entity, except as permitted under this Agreement or as mutually agreed in writing. MBNA America and UC shall be permitted to disclose such Information (i) to their accountants, legal, financial and marketing advisors, and employees as necessary for the performance of their respective duties, provided that said persons agree to treat the information as confidential in the above described manner and (ii) as required by law or by any governmental regulatory authority.

## 8. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on January 1, 2000. This Agreement will automatically extend at the end of the initial term or any renewal term for successive one-year periods, unless either party gives written

notice of its intention not to renew at any time prior to the last date of such term or renewal term, as applicable.

9. STATE LAW GOVERNING AGREEMENT

This Agreement shall be governed by and subject to the laws of the State of Delaware (without regard to its conflict of laws principles) and shall be deemed for all purposes to be made and fully performed in Delaware. Any action in regard to this Agreement or arising out of its terms and conditions may be instituted and litigated before the New York State Supreme Court, Third Judicial District, Schenectady County or the state or federal courts located within the State of Delaware.

10. TERMINATION

(a) In the event of any material breach of this Agreement by MBNA America or UC, the other party may terminate this Agreement by giving notice, as provided herein, to the breaching party. This notice shall (i) describe the material breach; and (ii) state the party's intention to terminate this Agreement. If the breaching party does not cure or substantially cure such breach within sixty (60) days after receipt of notice, as provided herein (the "Cure Period"), then this Agreement shall terminate sixty (60) days after the Cure Period.

(b) If either MBNA America or UC becomes insolvent in that its liabilities exceed its assets, or is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Agreement.

(c) Upon termination of this Agreement, MBNA America shall, in a manner consistent with Section 10(d) of this Agreement, cease to use the UC name, Logo, or other Identity Marks. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the UC name, Logo, or other Identity Marks or to the Mailing Lists provided pursuant to this Agreement. However, MBNA America may conclude all solicitation that is required by law.

(d) MBNA America shall have the right to prior review and approval of any notice in connection with, relating or referring to the termination of this Agreement to be communicated by UC to the Members. It is expressly understood and agreed to by the parties that UC may notify its Members that UC will not receive a royalty or benefit from the individuals continued use of the MBNA Credit Card. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, UC shall not attempt to cause the removal of UC's identification or Identity Marks from any person's credit devices, checks or records of any Customer existing as of the effective date of termination of this Agreement.

11. MISCELLANEOUS

(a) This Agreement cannot be amended except by written agreement signed by the authorized agents of both parties hereto.

(b) The obligations in Sections 4(b), 7, 10(c), and 10(d) shall survive any termination of this Agreement.

(c) The failure of any party to exercise any rights under this Agreement shall not be deemed a waiver of such right or any other rights.

(d) The section captions are inserted only for convenience and are in no way to be construed as part of this Agreement.

(e) If any part of this Agreement shall for any reason be found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Agreement which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.

(f) All notices relating to this Agreement shall be in writing and shall be deemed given (i) upon receipt by hand delivery, facsimile or overnight courier, or (ii) three (3) business days after mailing. All notices shall be addressed as follows:

(1) If to UNION COLLEGE:

UNION COLLEGE  
Office of College Relations  
Fero House  
Shenectady, NY, 12308

ATTENTION: Ms. Debra Balliet,  
Director of Development

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.  
1100 North King Street  
Newark, Delaware 19884

ATTENTION: Mr. Howard C. Wallace  
Senior Executive Vice President

Any party may change the address to which communications are to be sent by giving notice, as provided herein, of such change of address.

(g) This Agreement contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior promises and agreements, written or oral, with respect to the matters covered herein. MBNA America may utilize the services of any third party in fulfilling its obligations under this Agreement, provided however that MBNA America shall remain responsible for the fulfillment of all of its obligations under this Agreements.

(h) MBNA America and UC are not agents, representatives or employees of each other and neither party shall have the power to obligate or bind the other in any manner except as otherwise expressly provided by this Agreement.

(i) Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than UC and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Agreement.

(j) Neither party shall be in breach hereunder by reason of its delay in the performance of or failure to perform any of its obligations herein if such delay or failure is caused by strikes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or any event beyond its reasonable control or without its fault or negligence.

(k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties, by its representative, has executed this Agreement as of the Effective Date.

UNION COLLEGE

By: Debra Balliet

Name: DEBRA BALLIET

Title: DIRECTOR OF DEVELOPMENT

MBNA AMERICA BANK, N.A.

By: John C. Richmond

Name: JOHN C. RICHMOND

Title: SR. Executive Vice President

## SCHEDULE A

### TERMS AND FEATURES

Subject to (i) MBNA America's right to vary the Program and its terms and features, and (ii) the applicable agreement entered into between MBNA America and each Customer:

#### A. CREDIT CARD ACCOUNTS

1. There is NO annual fee.
2. For Alumni Customers the current annual percentage rate will be a variable rate of prime plus 7.9%. For Platinum Plus Customers the current annual percentage rate will be a variable rate of prime plus 7.4%. For variable rate accounts, there may be an additional margin applied on account of the Alumni Customer's delinquency.
3. Customers may be offered opportunities to select credit insurance as a benefit under the Program.

#### B. GOLD RESERVE ACCOUNTS

"Gold Reserve Account" means a GoldReserve® (as such service mark may be changed by MBNA America, in its sole discretion, from time to time) revolving loan account opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is NO annual fee for the first six months.
2. The annual fee for the second six (6) months, when applied, is \$10.00.
3. Thereafter the annual fee, when applied, is \$20.00.
4. The current annual percentage rate is 17.90%.

#### C. GOLD OPTION ACCOUNTS

"Gold Option Account" means a GoldOption<sup>SM</sup> (as such service mark may be changed by MBNA America, in its sole discretion, from time to time) revolving loan account opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is NO annual fee.
2. The current annual percentage rate is 14.99%.

## SCHEDULE B

### ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay UC a Royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of Royalties by MBNA America:

#### A. CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$1.00 (one dollar) for each Alumni Customer Credit Card Account for which the annual fee is paid by the Alumni Customer. If no annual fee is assessed by MBNA America (other than as a result of a courtesy waiver by MBNA America), then such royalty will be paid for each Alumni Customer Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. 0.50% (one half of one percent) of all retail purchase transaction dollar volume generated by Alumni Customers using an Alumni Customer Credit Card Account (excluding those transactions that relate to refunds, returns and unauthorized transactions).

#### B. GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Reserve Account opened, which remains open for at least ninety (90) consecutive days.
2. 0.25% (twenty-five one-hundredths of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for each Gold Reserve Account. This Royalty will be paid within sixty (60) days of the calendar year end.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that a Customer pays the annual fee on a Gold Reserve Account.

#### C. GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Option Account opened, which remains open for at least ninety (90) consecutive days.

2. 0.25% (twenty-five one-hundredths of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for each Gold Option Account. This Royalty will be paid within sixty (60) days of the calendar year end.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that each Gold Option Account remains open.

D. DEPOSIT ACCOUNTS

"CD Deposits" means those deposits in the certificate of deposit accounts opened by Members in response to marketing efforts made pursuant to the Program.

"MMDA Deposits" means those deposits in the money market deposit accounts opened by Members in response to marketing efforts made pursuant to the Program.

1. 0.10% (ten one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.0083330%) of the average MMDA Deposits.
2. 0.05% (five one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.004167%) of the average CD Deposits.

**FIA CARD SERVICES™**

FIA Card Services, DES-001-08-02  
1100 N. King Street  
Wilmington, DE 19884

Tel: 800.441.7048

**Via Overnight Delivery**

November 2, 2011

Ms. Debra Balliet  
Director of Development  
Union College  
Office of College Relations  
Fero House  
Shenectady, NY 12308

Dear Ms. Balliet:

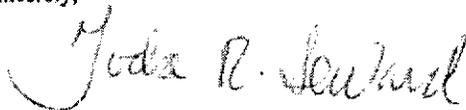
I am writing to inform you that following a comprehensive review of the Union College credit card program, FIA Card Services, N.A. formerly known as MBNA America Bank, N.A. ("FIA") has decided not to renew our Affinity Agreement entered into as of April 17, 1997, as the same may have been amended ("Agreement").

This letter serves as FIA's written notice of non-renewal of the Agreement, as required by Sections 8 and 11(f) of the Agreement.

The Agreement's expiration date is January 1, 2012.

We have appreciated your endorsement.

Sincerely,



Todd Seward  
Account Executive  
302-432-6204