

**UNIVERSITY OF MINNESOTA ALUMNI ASSOCIATION  
AFFINITY AGREEMENT**

This Agreement is entered into as of this 19<sup>th</sup> day of November, 2008 (the "Effective Date") by and between FIA Card Services, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("Bank"), and University of Minnesota Alumni Association, a non-profit corporation having its principal place of business at McNamara Alumni Center, 200 Oak Street SE, Suite 200 Minneapolis, Minnesota 55455-2040 ("UMAA"), for themselves and their respective successors and assigns.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, UMAA and Bank agree as follows:

1. DEFINITIONS

When used in this Agreement, the following initially capitalized words and phrases will have the meanings ascribed to them as set forth below:

**"Affiliate"** means, with respect to any entity or organization, any other entity or organization (other than UMAA chapters) directly controlled by, or under common control with such entity or organization. The term "controlled by" and "under common control with" means the possession of the power to direct or cause the direction of the management and policies, whether through the ownership of voting securities, by contract or otherwise; provided, however, that notwithstanding the foregoing, an "Affiliate" of UMAA will not include the University of Minnesota.

**"Agreement"** means this affinity agreement and all Schedules attached hereto and incorporated by reference therein.

**"Applicable Law"** means, at any time, any applicable (i) federal, state, and local statutes, regulations, licensing requirements, regulatory bulletins or guidance, regulatory examinations, agreements or orders, (ii) regulations, by-laws and rules of any applicable self-regulatory organizations, (iii) rule, regulation, restriction, requirement or contractual term of VISA, MasterCard, American Express or other card network and (iv) judicial or administrative interpretations of any of the foregoing.

**"Confidential Information"** has the meaning ascribed to such word in Section 7.

**"Constituent"** means persons formerly enrolled as students of the University, parents of students enrolled, or formerly enrolled in the University who are or were members of UMAA, faculty or staff of the University who are or were members of UMAA, any other person who is or was a member of UMAA, and after December 20, 2009, persons other than undergraduate students of the University who have purchased season tickets to University intercollegiate athletic events, provided, however, that a Constituent will not

include any person currently enrolled as an undergraduate student at the University and/or other potential participants as mutually agreed by UMAA and Bank.

**“Credit Card Account”** means an open-end consumer credit account opened pursuant to the Program that is accessed utilizing a card, plate and/or any other device or instrument.

**“Customer”** means any Constituent who opens a Financial Service Product account with Bank by reason of the Program.

**“Eligible Royalties”** means all Royalties that accrue and are payable under Schedule A of the Agreement, except for those opening of account Royalties, as referenced in Schedule A, that accrue and are payable pursuant to Schedule A for any GIP Account, Reward GIP Account, and Emerging GIP Account.

**“Emerging Account”** means a Credit Card Account coded by Bank with one of Bank’s risk management identifiers. Emerging Accounts may carry a Reward Enhancement.

**“Emerging GIP Account”** means an Emerging Account opened pursuant to a GIP in which UMAA complies with the GIP provisions of this Agreement.

**“Financial Service Product”** means any credit card program, charge card program, installment loan program, revolving line of credit or loan program, travel and entertainment charge card program and any other financial service programs or products as mutually agreed upon by UMAA and Bank; provided that a “Financial Service Product” will not include (1) any card used to make an electronic withdrawal from the holder’s funds on deposit at a financial institution, or any non-credit cards, including but not limited to debit cards, gift cards, stored value cards, ATM Cards, per diem cards, or any other cards associated with a depository account or checking account, or (2) any Financial Services Products that UMAA or University use for internal business purposes, (3) any credit card or travel and entertainment card program that UMAA or University authorizes UMAA or University employees to use for business expenses incurred or reimbursable by UMAA or University or (4) University’s program with Chase to provide credit card programs through December 20, 2009. Notwithstanding the foregoing, UMAA shall have the right to enter into agreements with third parties to offer secured installment loan products, provided that the products offered under such agreements are not accessed by credit card or other credit device.

**“GIP Account”** means a Credit Card Account opened pursuant to a GIP in which UMAA complies with the GIP provisions of this Agreement.

**“Gold Option Account”** means a revolving consumer loan account, opened pursuant to the Program that is promoted under the tradename “Gold Option®” (as such service mark may be changed by Bank in its sole discretion, from time to time).

**“Gold Option GIP Account”** means a Gold Option Account opened pursuant to a GIP in which UMAA complies with the GIP provisions of this Agreement.

**“Gold Reserve Account”** means a revolving consumer line of credit account, opened pursuant to the Program that is promoted under the tradename “GoldReserve®” (as such service mark may be changed by Bank, in its sole discretion from time to time).

**“Gold Reserve GIP Account”** means a Gold Reserve Account opened pursuant to a GIP in which UMAA complies with the GIP provisions of this Agreement.

**“Group Incentive Program”** or “GIP” means any marketing or other program whereby UMAA conducts and funds solicitation efforts for the Program, and the parties mutually agree that such marketing or other program will constitute a GIP.

**“Marketing List”** means an updated and current list (in a format designated by Bank) containing non-duplicate names, with corresponding valid postal addresses and, when available, telephone numbers (including area codes) and e-mail addresses of all Constituents who are at least eighteen years of age, segmented by zip codes or other mutually selected characteristics.

**“Program”** means the Financial Service Products, and the promotion thereof, that Bank and UMAA agree that Bank may offer to Constituents pursuant to this Agreement from time to time.

**“Program Trademarks”** means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark developed either jointly with UMAA or solely by Bank (including its Affiliates) during the term of this Agreement and used to promote or identify products or services offered by Bank through the Program. Program Trademarks will not consist in whole or in part of any Trademark, without UMAA’s express written authorization, and the parties’ execution of a written license agreement setting forth the terms and conditions of Bank’s use of any Trademarks as part of a Program Trademark.

**“Reward Account”** means a Credit Card Account carrying a Reward Enhancement.

**“Reward Enhancement”** means an enhancement as provided through Bank and offered as part of the Program as a reward to Customers to use their credit card for the purchase of goods and services. A Reward Enhancement may be marketed under a name (e.g., World Points), as determined by Bank from time to time, in its sole discretion.

**“Reward GIP Account”** means a Reward Account opened pursuant to a GIP in which UMAA complies with the GIP provisions of the Agreement.

**“Royalties”** means the compensation set forth in Schedule A.

“**Trademarks**” means trademarks, logos, or service marks owned, used or acquired by UMAA or the University during the term of this Agreement as set forth on Schedule C and licensed to Bank for use in connection with the Program on the terms and conditions set forth herein.

“**University**” means the University of Minnesota Twin Cities Campus.

## 2. RIGHTS AND RESPONSIBILITIES OF UMAA

- (a) UMAA agrees that during the term of this Agreement it will endorse the Program exclusively and that neither UMAA nor any UMAA Affiliate will, by itself or in conjunction with others, directly or indirectly: (i) sponsor, advertise, aid, develop, market, solicit proposals for programs offering, or discuss with any organization (other than Bank) the providing of, any Financial Service Products of any entity other than Bank; (ii) license, allow others to license, or use or allow to exist the use by others of the Trademarks in relation to or for promoting any Financial Service Products of any entity other than Bank; and (iii) sell, rent or otherwise make available or allow others to sell, rent or otherwise make available any of its Marketing Lists or information about any current or potential Constituents in relation to or for promoting any Financial Service Products of any entity other than Bank. Notwithstanding anything contained in this Agreement to the contrary, UMAA may (1) solicit proposals for programs offering, or discuss with any organization other than Bank, the providing of any Financial Service Products of any entity other than Bank during the twelve (12) months immediately preceding the expiration of the term of this Agreement; provided, however, that no agreement between UMAA or any UMAA Affiliate and any entity other than Bank for the providing of Financial Service Products will have an effective date prior to the expiration of this Agreement, and (2) UMAA may accept print advertising or event sponsorships from any financial institution, or advertising that identifies any structure for which a financial institution has secured the naming rights, provided that the advertisement or sponsorship does not contain any representation that UMAA is endorsing said financial institution or any Financial Service Product other than Bank’s Financial Service Products.
- (b) UMAA agrees to provide Bank with such information and assistance as may be reasonably requested by Bank in connection with the Program.
- (c) Subject to limitations in this Agreement or imposed by Applicable Law, UMAA authorizes Bank to solicit Constituents for participation in the Program by mail, direct promotion, internet, advertisements, banking centers, telephone or any other means as mutually agreed to by the parties and for direct mail, telemarketing and e-newsletter solicitations, at the frequencies and intervals not in excess of those specifically set forth in Section F.1 (iii), (iv), and (v) of Schedule A. After December 20, 2009 Bank will have the right to solicit University’s athletic season ticketholders by direct mail two times per year during the term of the Agreement for participation in the Program. The current list of season ticketholders contains six thousand three hundred and ninety (6,390) names.

- (d) UMAA agrees that, from time to time, it will include Program solicitation materials provided by Bank in new member kits during the term of this Agreement. Solicitation of the Program via new member kits is not considered GIP and UMAA will not be entitled to the GIP compensation set forth in Schedule A of this Agreement for any Credit Card Accounts generated pursuant to such solicitations.
- (e) UMAA will have the right of prior approval of all Program materials to be used by Bank that contains any Trademarks other than the Bank's use of UMAA's trade name "University of Minnesota Alumni Association" on monthly statements or other correspondence from Bank to a Customer relating to the Customer's account(s), provided that such approval will not be unreasonably withheld or delayed. In the event that Bank incurs a cost because of a change in the Trademarks (e.g., the cost of reissuing new credit cards), Bank may deduct such costs from any Royalties due UMAA. In the event such costs exceed Royalties then due UMAA, if requested by Bank, UMAA will promptly reimburse Bank for all such costs.
- (f) Within thirty (30) days following the request of Bank, UMAA will provide Bank with the Marketing List free of any charge, and will provide updated Marketing Lists in six (6) month intervals free of any charge provided, however, that UMAA will use commercially reasonable efforts to remove from any Marketing List the name and/or related information regarding any Constituent who has expressly requested that UMAA not provide his/her personal information to third parties; provided that with respect to any complaint or action by a Constituent for any failure of UMAA to so remove such names, UMAA will defend, indemnify and hold Bank harmless from and against any and all such liability, causes of action, claims and the reasonable and actual costs in connection therewith arising from Bank's use of the Marketing List for the promotion of the Program. UMAA will provide the first Marketing List, containing the required information for at least three hundred thirty-five thousand (335,000) non-duplicate Constituent names, as soon as possible but no later than thirty (30) days after UMAA's execution of this Agreement. Subject to the rights granted to Bank in this Section 2 (f), Bank acknowledges that UMAA owns all right, title and interest in and to the Marketing Lists, that Bank will not take any action inconsistent with UMAA's ownership claims in the Marketing Lists, nor assist others in doing so.
- (g) UMAA will, and will cause any UMAA Affiliates to, only provide information to or otherwise communicate with Constituents or potential Constituents about the Program with Bank's prior written approval, except for current advertising and solicitation materials provided by Bank to UMAA. Notwithstanding the above, UMAA may respond to individual inquiries about the Program from any Constituents on an individual basis, provided that said responses are accurate and consistent with the then-current materials provided by Bank to UMAA. Any correspondence received by UMAA that is intended for Bank (e.g., applications, payments, billing inquiries, etc.) will be forwarded to the Bank account executive via overnight courier within two (2) business days of receipt. All reasonable overnight courier expenses incurred by UMAA will be paid by Bank.

- (h) UMAA hereby grants Bank and its Affiliates a limited, non-transferable, license to use the Trademarks displayed on Schedule C solely in conjunction with the Program. UMAA agrees that it will not license the use of the Trademarks to any other provider of Financial Service Products during the term of this Agreement and that Bank will be the only entity authorized by UMAA to offer Financial Service Products to Constituents. This license will remain in effect for the duration of this Agreement and will apply to the Trademarks listed on Schedule C, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization, or individual. UMAA will provide Bank with reproducible copies of all authorized Trademark production materials (e.g., camera ready art) required by Bank for the Program as soon as possible but no later than thirty (30) days after UMAA's execution of this Agreement. Nothing stated in this Agreement prohibits UMAA from granting to other persons a license to use the Trademarks in conjunction with any other service or product, except for any Financial Service Products. UMAA will have the right to discontinue any Trademark identified on Schedule C by providing Bank with an amended Schedule C and any successor Trademarks it is licensed to use. Upon receipt of an amended Schedule C, Bank's license to use any deleted Trademark(s) shall cease, except that Bank shall not be required to reissue any unexpired credit cards bearing any discontinued Trademark(s) prior to the normal expiration date for such cards unless specifically requested by UMAA to do so in writing, and in the event of such a request, Bank shall have sixty (60) days from the date the new Trademark design has been approved by Bank and UMAA to accomplish any reissuance of cards. In the event UMAA creates additional Trademarks that UMAA deems appropriate to license to Bank for use in conjunction with the Program, UMAA shall tender to Bank an amended Schedule C that adds the additional Trademark(s) to the Trademark(s) licensed pursuant to this Section 2(h) and Bank shall have the right to use the additional Trademark(s) in conjunction with the Program subject to the terms and conditions of this Agreement. As between UMAA and Bank, Bank acknowledges and agrees that, subject to the license to use the Trademark(s) granted in this Section 2(h), (1) UMAA or the University shall own all right, title and interest in the Trademark(s); (2) Bank will not take any action inconsistent with UMAA's or the University's ownership of the Trademark(s) and (3) Bank will not contest UMAA's or the University's claims of ownership in the Trademark(s), nor assist any others in doing so. UMAA agrees that after December 20, 2009, Bank shall be authorized to use certain additional Trademarks ("Additional Trademarks") separately identified on Schedule C.
- (i) All Program Trademarks, with the exception of Program Trademarks that consist of or contain, in whole or in part, any Trademark, will belong exclusively to Bank and Bank may register and use such Program Trademarks in any manner not prohibited by this Section 2(i). UMAA may not use any Program Trademark, except to promote the Program or any goods or services offered by Bank through the Program. UMAA will not register or attempt to register any Program Trademark. Bank will not register or attempt to register any Program Trademark that includes, in whole or in part, any Trademark. Bank may use Program Trademarks that contain Trademarks to promote or identify the

Program and any products or services offered by Bank through the Program at no cost to Bank, but only during the term of this Agreement. Bank's right to use any Program Trademark that includes, in whole or in part, any Trademark shall cease upon the termination or expiration of this Agreement for any reason, except as provided in Sections 11(c) and 11(d).

- (j) UMAA will, at no cost to Bank, place Bank's logo or an image of the credit card used by Bank in conjunction with Program on UMAA's home page, above the fold, and its member benefits page, within the internet site(s) of UMAA. Bank may establish a hyperlink from such logo or image to another internet site owned or controlled by Bank to enable a person to apply for any type of Program Credit Card Account. Any Credit Card Accounts generated pursuant to such a hyperlink will entitle UMAA to the GIP compensation set forth in Schedule A, subject to the other terms and conditions of this Agreement. UMAA will modify or remove such logo or image within two (2) business days of Bank's request. To enable Bank to view all Program material, UMAA will provide Bank with the ability to access any and all pages within the UMAA internet site(s) that display any Program material, whether or not such pages are "members only" pages.
- (k) UMAA agrees that after December 20, 2009 it will enter into negotiations with the appropriate University officials intended to cause University to agree to provide to Bank the marketing opportunities listed on Attachment #1, attached hereto and incorporated herein by reference, on terms and conditions mutually agreeable to UMAA, Bank and University.

### 3. RIGHTS AND RESPONSIBILITIES OF BANK

- (a) Bank at its own cost and expense will design, develop, maintain, and administer the Program for the Constituents.
- (b) Subject to Section 2(e), Bank at its own cost and expense will design all advertising, solicitation, and promotional materials used in the Program, except for materials used in any GIP. UMAA reserves the right of prior written approval of all marketing materials created by Bank that contain a Trademark and will be transmitted to Constituents, and of any scripts that will be used by Bank-retained telemarketers in making telephone solicitations of Constituents. Bank reserves the right of prior written approval of all materials concerning or related to the Program that may be developed by or on behalf of UMAA.
- (c) Bank will bear all costs of producing and mailing materials for the Program, except for materials used in any GIP.
- (d) Bank will make all credit decisions and will bear all credit risks with respect to each Customer's account(s) independently of UMAA. UMAA expressly disclaims any

representation or warranty concerning the current or future creditworthiness of any Constituent, and does not guaranty the financial obligations of any Constituent.

- (e) Bank will use the Marketing Lists provided pursuant to this Agreement solely in a manner consistent with this Agreement and will not permit any persons or entities allowed by Bank to have access to the Marketing Lists to use them for any other purpose. If Bank utilizes any unaffiliated third party companies to engage in marketing functions that would enable them to access the Marketing Lists in whole or in part, Bank will have entered into written agreements with such unaffiliated third parties prior to any disclosure of the Marketing List information to protect such information from unauthorized disclosure or non-permitted uses. Bank will have the sole right to designate Constituents on these Marketing Lists to whom promotional material will be sent. These Marketing Lists are and will remain the sole property of UMAA. However, Bank may maintain separately and will own all information that it obtains as a result of an account relationship or an application for an account relationship. This information becomes a part of Bank's files and will not be subject to this Agreement; provided however that Bank will not use this separate information in a manner that would imply an endorsement by UMAA.
- (f) Subject to Applicable Law, Bank has the right to place the Trademarks on gifts for individuals completing applications and on other premium items, including without limitation t-shirts, hats, "bobbleheads," or other items suitable in Bank's judgment for the solicitation of Credit Card Account applications. UMAA will have the right of prior approval of the types of gifts or premium items on which any Trademark will be displayed and of the use and appearance of the Trademarks on such items, but otherwise grants Bank the right to use the approved items at Bank's discretion. Bank will not be required to pay any third party (e.g., any producer, licensor(ee), or manufacturer of such gifts and premiums) royalties or other compensation otherwise due directly or indirectly to or on behalf of UMAA or an UMAA Affiliate for such gifts or premiums. UMAA waives such payments to any third party (ies) (and/or agrees to cause the recipient(s) of such payments to waive such payments), and will take (and/or will cause the recipient(s) of such payments to take) all actions to give effect to this waiver. If a third party should refuse to waive any royalties or other compensation due directly or indirectly to, or on behalf of, UMAA or an UMAA Affiliate, for such gifts or premiums (or otherwise prevent the realization of this benefit by Bank) then Bank may deduct such amount(s) from Royalties and/or Advance payments payable by Bank to UMAA.
- (g) Subject to the terms of this Agreement and during the first twelve (12) months of this Agreement only, Bank will award Customers two (2) points ("Double Points") on Reward Accounts for each dollar of Eligible Charges (as defined below) charged to their Reward Account during the first six (6) months each Reward Account is open. Bank agrees to fund the cost of the extra point awarded for Double Points. For purposes of this Section 3(g) "Eligible Charges" means, for each Reward Account in good standing, retail sales purchase transactions, made by a Customer or authorized users and any other types of transactions as mutually agreed from time to time between UMAA and Bank, less



refunds, returns and unauthorized transactions. Eligible Charges does not include any of the following: (i) cash advances of any kind against Customers' authorized credit limit (including bank cash advances, direct deposit cash advances, and ATM withdrawals), balance transfers, casino gaming chips, wire transfer, off-track wagers, lottery ticket transactions, and the purchase of money orders; (ii) late fees, over limit fees, annual fees, returned check fees, cash advance transaction fees, finance charges or any other type of fee; and (iii) credit insurance premiums, debt cancellation charges and other non-product or service-related transactions.

- (h) Bank shall not market any products or services that are not defined as Financial Service Products to any Constituents unless this Agreement is amended to permit such additional marketing activity on terms and conditions mutually agreeable to the parties.

#### 4. REPRESENTATIONS AND WARRANTIES

- (a) UMAA and Bank each represents and warrants to the other party 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) Subject to Section 2(k), no consent, approval, or authorization from any third party is required in connection with the negotiation, 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) UMAA represents and warrants to Bank as of the date hereof and throughout the term of this Agreement that (i) it has the right and power to license the Trademarks and (ii) after December 20, 2009, it has the right and power to sublicense any Additional Trademarks to Bank for use as contemplated by this Agreement, and to provide the Marketing List(s) to Bank for the promotion of the Program as set forth in this Agreement.
- (c) Bank represents and warrants to UMAA that any Bank trademarks or logos used or displayed in conjunction with the Program, including any Program Trademarks

(exclusive of any licensed Trademarks that may be incorporated into any such Program Trademarks) do not infringe upon the intellectual property rights of any third party and Bank will not, nor permit any of its Affiliates, agents, or independent contractors to, use the Trademarks or Marketing Lists for a purpose other than the purposes permitted under this Agreement.

## 5. ROYALTIES

- (a) During the term of this Agreement, Bank will pay Royalties to UMAA. Royalties will not be paid until a Schedule B (W-9 Form and ACH Form) or other IRS required form (e.g., W-8) is fully completed and returned to Bank. Except as otherwise provided in Schedule A, payment of Royalties then due will be made approximately forty-five (45) days after the end of each calendar quarter.
- (b) If at any time during the term of the Agreement any change in any card network's interchange rate(s) or similar rate(s), when measured separately or together with all other rate changes since the Effective Date, has more than a de minimis adverse impact on Bank's business, as determined by Bank in its sole discretion ("Impact"), then Bank may notify UMAA in writing of Bank's desire to renegotiate the Royalties and any other financial terms in the Agreement to address the Impact. If, within thirty (30) business days after UMAA's receipt of Bank's notice, the parties have not, for whatever reason, fully executed an addendum that modifies the Royalties and other financial terms to address the Impact, Bank shall have the right to terminate this Agreement, without penalty or liability to UMAA, upon ninety (90) days advance written notice.
- (c) On or before the forty-fifth (45<sup>th</sup>) day after the end of each calendar quarter during the term of this Agreement, Bank will provide UMAA with a statement showing the following information relating to Constituent Credit Card Accounts: the number of consumer Credit Card Accounts opened, the number of consumer Credit Card Accounts renewed and the retail purchase transaction dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar quarter on consumer Credit Card Accounts. Such reports shall separately state the number of GIP Accounts, Reward GIP Accounts, and Emerging GIP Accounts opened during the quarter by Constituents.
- (d) During the term of this Agreement and for twelve (12) months thereafter, upon the written request of UMAA, but no more frequently than one (1) request in any twelve (12) month period, Bank will provide UMAA with system reports generated by Bank containing all the information which both (i) formed the basis of Bank's calculation of the Royalties due UMAA since the last request was made or, if no previous request was made hereunder, for the last four (4) Royalty calculations performed by Bank, and (ii) may be disclosed by Bank without violating any legal rights of any third party or obligation of Bank. Such reports will be certified by an officer of Bank as to their accuracy; provided, however, that the reports will be certified as to their accuracy by the nationally recognized independent certified public accountants then being utilized by

Bank, at UMAA's expense, if UMAA so requests such accountants' certification in its written request(s) for the generation of such reports hereunder. Such request may not be made more than one time in any calendar year and Bank, in its reasonable discretion, must approve the scope, timing and pricing of the audit prior to commencement of the audit. In the event that an independent audit reveals a greater than 10% disparity in Bank's favor in any Royalty statement, Bank will pay to UMAA the amount due plus the reasonable and customary cost of the independent audit.

6. PROGRAM ADJUSTMENTS

Bank has the right to make periodic adjustments to the Program, including, without limitation, changes to its terms and features. Notwithstanding the foregoing, Bank will use reasonable efforts to give UMAA ten (10) days advance written notice of any significant adjustments to the Program; provided, however, that failure to deliver such notice will not be a breach of this Agreement. In addition, Customers may, as a benefit under the Program, be offered opportunities to select credit protection and other products and services.

7. CONFIDENTIALITY OF AGREEMENT

The terms of this Agreement, any proposal, financial information and proprietary information, including, but not limited to the Marketing Lists, provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("**Confidential Information**") are confidential as of the date of disclosure. Such Confidential 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. Each party will implement measures to protect the other party's Confidential Information from unauthorized disclosure that are at least as rigorous as the party implements to protect its own Confidential Information, but in any case not less than reasonable care. Bank and UMAA will be permitted to disclose such Confidential Information (i) to their officers, directors, relevant committee members, administrative officials, accountants, lawyers, financial advisors, marketing advisors, affiliates and employees (its "Agents") as necessary for the performance of their respective duties, provided that said persons agree to treat the Confidential Information as confidential in the above described manner provided, however, that the party disclosing Confidential Information to its Agents will be liable for any breach of this Section 7 by their Agents, or (ii) as required by law or requested by any governmental regulatory authority. In the case of UMAA, if an administrative official of the University should request to review this Agreement and/or any Program Royalty reports, UMAA will be permitted to disclose the contents of this Agreement and/or any Royalty reports so long as the University returns all copies of this Agreement and/or any Program Royalty reports to UMAA after completing their review. The obligations imposed by this Section 7 will not apply to any Confidential Information that (1) has been received from a third party who is not under any duty of confidentiality, (2) is independently developed or deduced by a party without reference to the other party's Confidential Information; (3) is in the

public domain through no fault of the receiving party; or (4) is required by a party to be produced pursuant to an order of a court of competent jurisdiction, compulsory process issued by a governmental agency, a properly authorized arbitrator or panel of arbitrators, or otherwise by operation of law; provided that the party responding to such a disclosure demand will provide the party who disclosed the Confidential Information with prompt written notice of the demand if allowed by applicable law, rule or regulation, sufficient to permit such party to quash the demand or seek an appropriate protective order, and the party responding to the disclosure demand will cooperate with the other party in such efforts at the disclosing party's expense.

## 8. CROSS INDEMNIFICATION

UMAA and Bank each will defend, indemnify and hold harmless the other party, its directors, officers, agents, employees, Affiliates, insurers, successors and assigns. and in the case of UMAA, the University (the "Indemnitees") from and against any and all liability, causes of action, claims, and the reasonable and actual costs incurred in connection therewith, including reasonable attorneys fees and litigation costs and expenses at trial and on appeal ("Losses"), resulting from third party claims alleging facts that if proven to be true would constitute a material breach of this Agreement or of the respective representations or warranties made by UMAA or Bank as set forth in this Agreement, respectively as the case may be, or UMAA's or Bank's directors, officers or employees. Including, without limitation, UMAA will indemnify, defend and hold harmless Bank, and its directors, officers, agents, employees, Affiliates, successors and assigns, from and against all liability, causes of action, and claims, and will reimburse Bank's costs, fees and expenses in connection therewith (including reasonable attorneys' fees and court expenses), arising from any third party claims that Bank's use of the Trademarks, any Additional Trademarks or the Marketing Lists pursuant to the terms and conditions set forth in this Agreement infringes upon or violates the third party's intellectual property rights or otherwise violates any law, rule, or regulation. Each party will promptly notify the other party in the manner provided herein upon learning of any claims or complaints that may reasonably result in the indemnification by the other party including, without limitation, those relating to the license or the use of any Trademarks, and in the case of UMAA, any Additional Trademarks or Marketing Lists. The indemnifying party shall have the right and obligation to appoint legal counsel at its sole cost and expense to defend any claim or complaint, provided that the indemnified party shall have the right to appoint legal counsel at its sole cost and expense to monitor the defense or settlement of any claim or complaint. The indemnified party shall reasonably cooperate with the indemnifying party in the defense or settlement of any claim or complaint. The indemnifying party shall have the right to settle or compromise any claim or complaint provided that the indemnified party shall have the right of prior approval of any settlement or compromise that reduces the indemnified party's rights or benefits under this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed.

9. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on December 31, 2018. This Agreement will automatically extend at the end of the initial term or any renewal term for successive two-year periods, unless either party gives written notice of its intention not to renew at least ninety (90) prior to the end of the then current term or renewal term, as applicable.

10. STATE LAW GOVERNING AGREEMENT

This Agreement will be governed by and subject to the laws of the State of Delaware (without regard to its conflict of laws principles) and will be deemed for all purposes to be made and fully performed in Delaware.

11. TERMINATION

- (a) In the event of any material breach of this Agreement by Bank or UMAA, the other party may terminate this Agreement by giving notice to the breaching party. This notice will (i) include a description of 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 will terminate sixty (60) days after the expiration of the Cure Period.
- (b) If either Bank or UMAA becomes insolvent in that its liabilities exceed its assets or it is unable to meet or it has ceased paying its obligations as they generally become due, or it 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 the expiration or earlier termination of this Agreement, Bank will, except as set forth in Section 11(d) of this Agreement, cease to use the Trademarks for Program marketing purposes, provided that Bank may conclude all solicitations required by law. Upon the expiration or earlier termination of this Agreement, Bank will not claim any right, title, or interest in or to the Trademarks including any Trademarks that may be incorporated into any Program Trademarks, or to the Marketing Lists, and any licenses granted by UMAA to Bank for the use of such Trademark(s) and Marketing Lists will cease, including the right to use the Trademarks within any Program Trademarks.
- (d) Bank will have the right to prior review and approval of any notice in connection with, relating or referring to the expiration or earlier termination of this Agreement to be communicated by UMAA or any UMAA Affiliate to the Constituents. Bank will not unreasonably withhold, condition or delay such approval. UMAA will have the right of

prior review and approval with respect to any notice from Bank to Constituents relating to the expiration or earlier termination of this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. Upon the expiration or earlier termination of this Agreement, UMAA will allow Bank to continue to use the Trademarks, including any Program Trademarks, on, and will not attempt to cause the removal of Trademarks from, any credit devices, or records of any Customer existing as of expiration or earlier termination of this Agreement until their normally scheduled reissue date or exhaustion.

- (e) In the event that Applicable Law has or will have a material adverse effect on Bank's business (as determined in Bank's sole discretion) ("Event"), Bank may notify UMAA in writing of Bank's desire to renegotiate the terms of the Agreement to address the Event. If, within thirty (30) business days after UMAA's receipt of Bank's notice, the parties have not, for whatever reason, fully executed an addendum that is satisfactory to both parties, Bank will have the right to terminate this Agreement, upon ninety (90) days advance written notice.
- (f) For a one (1) year period immediately following the expiration or earlier termination of this Agreement for any reason, UMAA agrees that neither UMAA nor any UMAA Affiliate will, by itself or in conjunction with others, directly or indirectly, target any offer of a Financial Service Product or a related product to persons who were Customers. Notwithstanding the foregoing, UMAA may, after the expiration or earlier termination of this Agreement, offer persons who were Customers the opportunity to participate in another financial service program endorsed by UMAA, provided the opportunity is not only made available to such persons but rather as a part of a general solicitation to all Constituents and provided further that persons are not directly or indirectly identified as a Customer, or offered any terms or incentives that differ from those offered to all Constituents.

## 12. GROUP INCENTIVE PROGRAM

- (a) UMAA will design all advertising, solicitation and promotional material with regard to any GIP. UMAA will give Bank sixty (60) days prior notice of its desire to engage in marketing efforts for any GIP. Credit Card Accounts generated from such efforts will entitle UMAA to the Royalty for GIP specified in Schedule A, subject to the other terms and conditions of this Agreement.
- (b) All marketing materials generated as a result of such GIP programs will be coded by UMAA as instructed by Bank for tracking purposes. Marketing materials or telemarketing inquiries from Constituents that do not contain or reference such coding will not be considered eligible for any GIP Royalty.
- (c) Bank will have the right of prior approval of all advertising and solicitation materials for use by UMAA pursuant to any GIP, which approval shall not be unreasonably withheld, conditioned or delayed. Bank has control over, in its sole discretion, the scope, timing,

content and continuation of any GIP, provided that Bank shall not unreasonably exercise such right of control. UMAA will not deviate from the approved materials and plan for any GIP without the prior written approval of Bank, which Bank shall not unreasonably withhold, condition or delay.

- (d) All costs incurred by Bank in producing and mailing materials created pursuant to any GIP or of supporting the marketing efforts of UMAA pursuant to any GIP will be promptly reimbursed by UMAA upon demand.
- (e) UMAA will make all reasonably requested changes to GIP promotional materials to obtain Bank's consent and UMAA will use commercially reasonable efforts to comply with all Applicable Laws, including, without limitation, the Truth in Lending Act and the Equal Credit Opportunity Act, with respect to any GIP; provided that with respect to any third party complaint or action alleging that UMAA's conduct relating to any GIP promotion violates any Applicable Laws, UMAA will defend, indemnify and hold Bank harmless from and against any and all such liability, causes of action, claims and the reasonable and actual costs in connection therewith.

13. MISCELLANEOUS

- (a) This Agreement cannot be amended except by written agreement signed by the authorized agents of both parties hereto.
- (b) Section 1, the indemnification provisions in 2(f) to the extent provided therein, the penultimate sentence of Section 2(h), the second, third, and fourth sentences of Section 2(i), 5(d) to the extent provided therein, 7, 8, 10, 11(c), 11(d), 11(f), the indemnification provisions in 12(e) to the extent provided therein, and 13 and Section G of Schedule A will survive the expiration or any earlier termination of this Agreement.
- (c) The failure of any party to exercise any rights under this Agreement will 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 is, for any reason, found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability will not affect the remainder of this Agreement which will survive and be construed as if such invalid or unenforceable part had not been contained herein and the parties hereto will immediately commence negotiations in good faith to reform this Agreement to make alternative provisions herein that reflect the intentions and purposes of the severed provisions in a manner that does not run afoul of the basis for such unenforceability or invalidity.

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

(1) If to UMAA:

University of Minnesota Alumni Association  
McNamara Alumni Center  
200 Oak Street SE, Suite 200  
Minneapolis, Minnesota 55455-2040

ATTENTION: Ms. Diane Fisher,  
Chief Financial Officer

Fax #: (612) 626-8167

(2) If to Bank:

FIA Card Services, N. A.  
MS DE5-004-04-02  
1100 North King Street  
Wilmington, Delaware 19884

ATTENTION: Contract Administration

Fax #: (302) 432-1821

(3) Any party may change the address and fax number 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. This Agreement does not and is not intended to alter or amend any aspect or provision of any other agreement between the parties that survives termination of that agreement. Without the prior written consent of Bank, which will not be unreasonably withheld, UMAA may not assign any of its rights or obligations under or arising from this Agreement. Bank may not assign or transfer its rights and/or obligations under this Agreement without the written consent of UMAA, which shall not be unreasonably withheld; provided however, that Bank may assign or transfer, without consent, any of its rights and/or obligations under this Agreement:

(i) to any individual, corporation or other entity (other than a subsidiary or an entity controlling, controlled by, or under common control with Bank (a "Bank Affiliate"))



pursuant to a sale (other than a sale as described in subsection (ii), below) as long as such prospective buyer has substantially similar customer satisfaction standards as Bank; or

(ii) to any individual, corporation or other entity (other than a Bank Affiliate) pursuant to a merger, consolidation, or a sale of all or substantially all the assets of Bank.


Bank may utilize the services of any third party in fulfilling its obligations under this Agreement. Bank will be liable to UMAA for any breach of this Agreement by any third party fulfilling a Bank obligation. Certain Financial Service Products or services under this Agreement may be offered through Bank's Affiliates.

- (h) Bank and UMAA are not agents, representatives or employees of each other and neither party will 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 will be construed to confer upon or give any person other than UMAA and Bank, or their permitted successors and assigns, any rights or remedies under or by reason of this Agreement.
- (j) Neither party will make any statement, whether written, oral or otherwise, to any person or entity which criticizes, disparages, condemns or impugns the reputation or character of the other or any of its Affiliates, whether or not the statement is true and whether or not it is characterized as confidential.
- (k) Neither party will be held responsible for any delay or failure in performance to the extent such delay or failure is caused by fire, flood, explosion, terrorism, war, strike, embargo, government laws, rules, regulations or requirements, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control, that was not reasonably foreseeable or avoidable, and without the fault or negligence and/or lack of diligence of the delayed party ("force majeure condition"). The non-delayed party will have the right to terminate this Agreement if such force majeure condition endures for more than one hundred twenty (120) days upon providing at least thirty (30) days written notice to the delayed party at any time after the expiration of the one hundred twenty (120) day period.
- (l) This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The parties hereto agree to accept a digital image of this Agreement, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction.
- (m) This Agreement is the product of negotiations between the parties hereto and their respective counsel. No provision or section of this Agreement will be read, construed or interpreted for or against either party by reason of ambiguity of language, rule of construction against the draftsman, or any similar doctrine.

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

**University of Minnesota  
Alumni Association**

**FIA Card Services, N.A.**

By: <u>Margaret S. Carlson</u>	By: <u></u>
Name: <u>Margaret S. Carlson</u>	Name: <u>JEFFREY FITCH</u>
Title: <u>Chief Executive Officer</u>	Title: <u>SENIOR VICE PRESIDENT</u>
Date: <u>11/19/08</u>	Date: <u>12/3/08</u>

## SCHEDULE A

### ROYALTY ARRANGEMENT

During the term of this Agreement, Bank will pay UMAA a Royalty calculated as follows, for those accounts with active charging privileges. Bank may create a special class of consumer accounts for UMAA employees who shall be Constituents for the purpose of the Program, and will pay the Royalty compensation set forth below for such designated accounts. All Royalty payments due hereunder are subject to adjustment by Bank for any prior overpayment of Royalties by Bank:

#### 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 and that is utilized by the Customer within the first ninety (90) consecutive days of the Credit Card Account's opening for at least one (1) purchase or cash advance that is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.
2. \$1.00 (one dollar) for each Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Credit Card Account that: 1) has a balance greater than zero as of the last processing 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 (12) months.
3. 0.50% (fifty basis points) of all retail purchase transaction dollar volume generated by Customers using a Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (*e.g.*, the purchase of wire transfers, person to person money transfers, bets, lottery tickets, or casino gaming chips)).
4. \$75.00 (seventy-five dollars) for each GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the GIP Account's opening for at least one (1) purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. Such GIP Accounts will not qualify for any other opening-of-an-account Royalty.

#### B. REWARD ACCOUNTS

Reward Account Royalty compensation provisions will not affect any other Royalty compensation provisions contained in the Agreement, and the Royalty compensation provisions referencing any other form of Credit Card Accounts will not apply to Reward Accounts.

1. \$1.00 (one dollar) for each new Reward Account opened, which remains open for at least ninety (90) consecutive days and that is utilized by the Customer within the first ninety (90) consecutive days of the Reward Account's opening for at least one (1) purchase or cash advance that is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. This Royalty will not be paid for any account which, after opening, converts to a Reward Account, or for any Reward GIP Account.
2. \$1.00 (one dollar) for each Reward Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Reward Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that Reward Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve (12) months. A Reward Account may renew every twelve (12) months after the opening of the account.
3. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using a Reward Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, person to person money transfers, bets, lottery tickets, or casino gaming chips)).
4. \$75.00 (seventy-five dollars) for each Reward GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Reward GIP Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. Such Reward GIP Accounts will not qualify for any other opening-of-an-account Royalty.

C. EMERGING ACCOUNTS

Emerging Account Royalty compensation provisions will not affect any other Royalty compensation provisions contained in the Agreement, and the Royalty compensation provisions referencing any other form of Credit Card Accounts will not apply to Emerging Accounts.

1. \$1.00 (one dollar) for each new Emerging Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Emerging Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.

2. \$1.00 (one dollar) for each Emerging Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Emerging Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month, and 2) has had active charging privileges for each of the preceding twelve (12) months.
3. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using an Emerging Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (*e.g.*, the purchase of wire transfers, person to person money transfers, bets, lottery tickets, or casino gaming chips)).
4. \$25.00 (twenty-five dollars) for each Emerging GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Emerging GIP Account's opening for at least one (1) purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. Such Emerging GIP Accounts will not qualify for any other opening-of-an-account Royalty.

D. GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new Gold Reserve Account opened, that is utilized by the Customer for at least one (1) transaction which is not subsequently rescinded or disputed.
2. 0.25% (twenty-five basis points) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the twelve (12) month period immediately prior to a Gold Reserve Account's opening of account anniversary date. This payment will be calculated as of the end of such twelve (12) month period, based upon outstanding balances measured as of the end of each of the preceding calendar months of that period occurring during the term of the Agreement. Each monthly measurement will include outstanding balances for only those Gold Reserve Accounts that are open with active charging privileges as of the last processing day of such month.
3. \$25.00 (twenty-five dollars) for each Gold Reserve GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Gold Reserve GIP Account's opening for at least one transaction which is not subsequently rescinded or disputed. Such Gold Reserve GIP Account will not qualify for any other opening-of-an-account Royalty.

E. GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new Gold Option Account opened, that is utilized by the Customer for at least one transaction which is not subsequently rescinded or disputed.
2. 0.25% (twenty-five basis points) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the twelve (12) month period immediately prior to a Gold Option Account's opening of account anniversary date. This payment will be calculated as of the end of such twelve (12) month period, based upon outstanding balances measured as of the end of each of the preceding calendar months of that period occurring during the term of the Agreement. Each monthly measurement will include outstanding balances for only those Gold Option Accounts that are open with active charging privileges as of the last processing day of such month.
3. \$25.00 (twenty-five dollars) for each Gold Option GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Gold Option GIP Account's opening for at least one transaction which is not subsequently rescinded or disputed. Such Gold Option GIP Account will not qualify for any other opening-of-an-account Royalty.

F. ROYALTY ADVANCES

1. Upon full execution of this Agreement, and upon each of November 1, 2009, November 1, 2010, November 1, 2011, November 1, 2012, November 1, 2013, November 1, 2014, November 1, 2015, November 1, 2016, and November 1, 2017 during the initial term of this Agreement, Bank will pay to UMAA the sum of four hundred and seventy-five thousand dollars (\$475,000) of which fifteen thousand dollars (\$15,000) will be utilized by UMAA as an allocation to a Program marketing budget (each, an "Advance"), subject to the provisions set forth below. All Eligible Royalties accrued will, in lieu of direct payment to UMAA, be applied against each of the Advances until such time as all Advances are fully recouped. Any Eligible Royalties accrued thereafter will be paid to UMAA as set forth in Section 5 (a) of this Agreement. Notwithstanding the foregoing, (x) Bank will no longer be obligated to pay any additional Advances to UMAA hereunder, and (y) UMAA hereby promises to pay Bank upon demand an amount equal to the difference between the total amount of the Advance(s) paid by Bank and the total amount of accrued Eligible Royalties credited by Bank against such Advance(s) as of the date of such demand, in the event any of the conditions set forth in Clauses (i) through (vi) below should occur:
  - (i) the Agreement is terminated by Bank prior to October 31, 2018 by reason of a breach of UMAA's duties or obligations under this Agreement by

UMAA, or any of its Affiliates, agents or representatives, which breach is not cured as provided by Section 11(a).

- (ii) the Agreement is terminated by Bank pursuant to Section 11(b);
  - (iii) Bank is prohibited or otherwise prevented by UMAA from conducting at least six (6) direct mail campaigns to the full updated Marketing List during each consecutive twelve (12) month period during the term of the Agreement;
  - (iv) Bank is prohibited or otherwise prevented from conducting at least two (2) telemarketing campaigns to the full updated Marketing List during each consecutive twelve (12) month period during the term of the Agreement;
  - (v) Bank is prohibited or otherwise prevented from promoting the Program in UMAA's e-newsletter at least four (4) times during each consecutive twelve (12) month period during the term of the Agreement. The minimum four (4) promotions will be in the top three (3) locations of the e-newsletter and use prime graphics. In each of the twelve (12) monthly e-newsletters, UMAA will include a recognition of the affinity partnership with Bank, and will include a link to the page of Bank's website at which relevant account applications are accessible. This condition may be amended by mutual agreement of Bank and UMAA; or
  - (vi) University enters into, endorses, sponsors or promotes to Constituents any Financial Service Product with any entity other than Bank, or licenses its Trademarks to any entity other than Bank for the purposes of offering Financial Service Products to Constituents.
2. UMAA agrees that the fifteen thousand dollar (\$15,000.00) annual marketing budget shall be expended for a Program advertisement placement on the inside back cover of the *Minnesota* magazine (or any successor thereof) three times during the first year of the Agreement. The fifteen thousand dollar (\$15,000) marketing budget of each subsequent Advance will be designated for marketing the Program in a manner mutually agreed upon by the parties.
3. If during any given year(s) during the initial term of this Agreement Bank recoups all prior Advances paid by it to UMAA in prior years, and pays UMAA Eligible Royalties accrued by UMAA over and above the Eligible Royalties used by Bank to recoup such prior Advances (the "Paid Out Eligible Royalties"), then Bank may reduce the four hundred seventy-five thousand dollar (\$475,000) subsequent Advance(s) by the amount of any such Paid Out Eligible Royalties.

G. ROYALTY GUARANTEE

UMAA will be guaranteed to accrue Eligible Royalties (including without limitation the amount of the Advances) equal to or greater than four million seven hundred fifty thousand dollars (\$4,750,000) (the "Guarantee Amount") by October 31, 2018, subject to the following provisions. If on October 31, 2018, Bank has not paid to UMAA \$4,750,000 in Eligible Royalties and marketing budget allocations, Bank will pay UMAA on or before December 15, 2018 an amount equal to the Guarantee Amount minus the sum of all Paid Out Eligible Royalties and Advances (including marketing budget allocations) paid to UMAA during the initial term of this Agreement. Notwithstanding the foregoing, (i) this Royalty Guarantee and any obligation of Bank hereunder will be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection F.1., above, and (ii) the Royalty Guarantee and any obligation of Bank pursuant to this Section G will not be enforceable if the Agreement is terminated pursuant to Sections 5(b) or 11(e).



## Attachment #1

### PROMOTIONAL OPPORTUNITIES

In accordance with Section 2(k) of this Agreement, UMAA will provide the following to Bank at no additional cost:

- (a) When conducting direct promotion events, Bank may have as many as four (4) direct promotion locations (each a "Location") within the athletic facility holding the game or athletic event. The Locations will be at prominent locations and will be mutually agreed upon by UMAA and Bank.
- (b) Passes to all Bank employees and agents that are conducting the direct promotion campaign.
- (c) Four (4) parking permits/passes for each game at which Bank will be conducting direct promotion events.
- (d) Reasonable vehicular access to the athletic facility in which Bank will be conducting direct promotion events. Such vehicular access will, to the extent possible, provide the Bank vehicle a convenient position, in relation to each Location, before and after the event to unload/load.
- (e) Bank will be permitted to set up each Location at least one (1) hour prior to the gates opening for the athletic event.
- (f) Any issues concerning direct promotion events not specifically mentioned in this Agreement will be mutually agreed upon by Bank and UMAA and both parties agree to be reasonable.