

UNIVERSITY OF TEXAS AT TYLER  
AFFINITY AGREEMENT

This Agreement is entered into as of this 15th day of December, 1995 (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 UNIVERSITY OF TEXAS AT TYLER ALUMNI ASSOCIATION, an educational institution having its principal place of business in Tyler, Texas ("Alumni Association") 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.
- (b) "Credit Card Account" means a credit card Account opened by a Alumni or Student 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, charge card programs, debit card programs, installment loan programs, revolving loan programs, travel and entertainment card programs, deposit programs, long distance calling card programs and other related financial service programs.
- (e) "Group Incentive Program " or "GIP" means any marketing or other program whereby Alumni Association conducts solicitation efforts for the Program, and the parties mutually agree that such marketing or other program shall constitute a GIP.
- (f) "GIP Account" means a Credit Card Account opened by a Member pursuant to a GIP in which Alumni Association complies with the GIP provisions of this Agreement.
- (g) "Mailing Lists" means updated and current lists and/or magnetic tapes (in a format designated by MBNA America) containing names, postal addresses and, when available, telephone numbers of Members segmented by zip codes or reasonably selected membership characteristics.
- (h) "Member" means a Student or alumni member of Alumni Association and/or other potential participants mutually agreed to by Alumni Association and MBNA America.
- (i) "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.
- (j) "Royalties" means the compensation set forth in Schedule B.

(k) "Trademarks" means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark that is owned by Alumni Association and specified in Schedule D hereof which are used or required by Alumni Association during the term of this Agreement.

## 2. RIGHTS AND RESPONSIBILITIES OF Alumni Association

(a) Alumni Association 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; (ii) it will not license or allow others to license the Trademarks 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; and (iii) no Alumni Association publication shall carry advertisements for any Financial Service Products of any entity other than MBNA America.

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

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

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

(e) Upon the request of MBNA America, Alumni Association shall provide MBNA America with Mailing Lists free of any charge. In the event that MBNA America incurs a cost because of a charge assessed by Alumni Association or its agents for an initial Mailing List or an update to that list, MBNA America may deduct such costs from Royalties due Alumni Association. The initial Mailing List shall contain at least 9,000 Alumni names with corresponding postal addresses and, when available, telephone numbers.

(f) Alumni Association 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 Alumni Association.

(g) Alumni Association hereby grants MBNA America and its affiliates a limited, exclusive license to use the Trademarks 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 Trademarks, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization or individual. Nothing stated in this Agreement prohibits Alumni Association from granting to other persons a license to use the Trademarks in conjunction with the providing of any other service or product, except for any Financial Service Products.

(h) Alumni Association shall provide MBNA America with a subscription without charge to any and all Alumni Association publications.

### 3. RIGHTS AND RESPONSIBILITIES OF MBNA AMERICA

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

(b) 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 Alumni Association.

(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 Alumni Association.

(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 sole 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 Alumni Association. 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 MBNA America shall be entitled to use this information for any purpose. MBNA America will not use this separate information in a manner that would imply an endorsement by Alumni Association.

(f) MBNA America shall not use any trademarks, which are owned by Board of Regents, The University of Texas System, in conjunction with the Program.

### 4. REPRESENTATIONS AND WARRANTIES

(a) Alumni Association 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) Alumni Association represents and warrants to MBNA America as of the date hereof and throughout the term of this Agreement that it has the right and power to license the Trademarks to MBNA America for use as contemplated by this Agreement.

## 5. ROYALTIES

During the term of this Agreement, MBNA America shall pay Royalties to Alumni Association. 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.

## 6. CROSS INDEMNIFICATION

Alumni Association and MBNA America each will indemnify and hold harmless the other party, its directors, officers, agents, employees, affiliates, successors and assigns (the "Indemnitees") from and against any and all liability, causes of action, claims, and the reasonable and actual costs incurred in connection therewith ("Losses"), resulting from the material breach of this Agreement by Alumni Association or MBNA America, respectively as the case may be, or its directors, officers or employees. Alumni Association will indemnify and hold harmless MBNA America and its Indemnitees from and against any and all Losses arising from the Trademark license granted herein or from MBNA America's use of the Trademarks in reliance thereon. Each party shall 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.

## 7. 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.

## 8. 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 Alumni Association 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.

9. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on December 15th, 2000. This Agreement will automatically extend at the end of the initial term or any renewal term for successive two-year periods. After the initial term either party may terminate this Agreement without cause by providing notice to the other party, as provided herein.

10. 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.

11. TERMINATION

(a) In the event of any material breach of this Agreement by MBNA America or Alumni Association, 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 Alumni Association 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 11(d) of this Agreement, cease to use the Trademarks. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the Trademarks or to the Mailing Lists provided pursuant to this Agreement. However, MBNA America may consult Tyler 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 communicated by Alumni Association to the Members. Upon termination of this Agreement, Alumni Association shall not attempt to cause the removal of Alumni Association's identification or Trademarks from any person's credit devices, checks or records of any Customer existing as of the effective date of termination of this Agreement except to the extent that all credit card designs bearing the

Alumni Association's name and/or trademark(s) shall not be reproduced by MBNA America after expiration date of existing cards.

12. GROUP INCENTIVE PROGRAM

(a) MBNA America shall design all advertising, solicitation and promotional material with regard to the Program, except with respect to those materials designed by Alumni Association pursuant to any GIP. In that regard, Alumni Association shall give MBNA America sixty (60) days prior notice of its decision to engage in marketing efforts regarding the Program itself, specifying that Accounts generated from such efforts will entitle Alumni Association to the Royalty specified in Schedule B, subject to the other terms and conditions of this Agreement.

(b) All marketing materials generated as a result of such GIP programs shall be coded by Alumni Association for tracking purposes. Marketing materials or telemarketing inquiries from Members which, in either case, do not contain or reference such coding shall not be considered eligible for any of the GIP Royalty as set forth in Schedule B.

(c) In addition to all other rights it may have under this Agreement, MBNA America shall have the right of prior approval of all advertising and solicitation materials distributed by Alumni Association pursuant to any GIP. Further, MBNA America shall have final approval of the scope, timing and content of any GIP.

(d) All costs incurred by MBNA America in producing and mailing materials created pursuant to any GIP or of supporting the marketing efforts of Alumni Association pursuant to any GIP shall be deducted from any or all Royalty payments due Alumni Association under this Agreement.

(e) Alumni Association shall comply with MBNA America's instructions and all applicable laws, include including, without limitation, the Truth in Lending act and the Equal Credit Opportunity act, with regard to any GIP.

13. 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 6, 8, 11(c), and 11(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 by registered or certified mail, postage prepaid, return receipt requested. All notices shall be addressed as follows:

(1) If to UNIVERSITY OF TEXAS AT TYLER ALUMNI ASSOCIATION:

Alumni Association  
3900 University Boulevard  
Tyler, Texas 75799

ATTENTION: Ms. Susan Gilbert  
Coordinator of Alumni Affairs

Fax #: (903) 566-7411

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.  
400 Christiana Road  
Newark, Delaware 19713

ATTENTION: Mr. Ric S. Struthers,  
Vice Chairman

Fax #: (302) 453-2011

Any party may change the address to which communications are to be sent by giving notice, as provided herein, of such change of address. If Alumni Association is providing MBNA America with notice pursuant to Section 9 herein, Alumni Association must provide notice at least twelve (12) months before the effective date contained in such notice.

(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. Without the prior written consent of MBNA America, which shall not be unreasonably withheld, Alumni Association may not assign any of its rights or obligations under or arising from this Agreement. MBNA America may assign any of its rights or obligations under this Agreement to any other person without the prior written consent of Alumni Association. MBNA America may utilize the services of any third party in fulfilling its obligations under this Agreement.

(h) MBNA America and Alumni Association 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 Alumni Association and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Agreement.

(j) Alumni Association recognizes and agrees that MBNA America's goodwill and reputation in the marketplace are valuable and intangible assets; therefore, Alumni Association agrees that it shall not conduct itself or engage in any activity in a manner which may adversely affect these assets. In the event MBNA America determines that Alumni Association does not so conduct itself, MBNA America may terminate this Agreement, effective immediately.

(k) 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.

(l) 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.

UNIVERSITY OF TEXAS AT TYLER  
ALUMNI ASSOCIATION

MBNA AMERICA BANK, N.A.

By: Susan E. Gilbert

By: [Signature]

Name: Susan E. Gilbert

Name: [Signature]

Title: Alumni Coordinator

Title: Perio Area 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. The current annual percentage rate will be a variable rate of prime plus 8.9% for Alumni members. For variable rate Accounts, there may be an additional margin applied on Account of the Customer's delinquency.
3. The current annual percentage rate will be a variable rate of prime plus 9.9% for Student members. For variable rate Accounts, there may be an additional margin applied on Account of the Customer's delinquency.
4. Customers may be offered opportunities to select credit insurance as a benefit under the Program.

## SCHEDULE B

### ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay Alumni Association 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 Alumni and Student Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$1.00 (one dollar) for each Alumni and Student Credit Card Account for which the annual fee is paid by the 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 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. 0.20% of all retail purchase transaction dollar volume generated by Alumni Customers using a Credit Card Account (excluding those transactions that relate to refunds, returns and unauthorized transactions).
4. 0.15% of all retail purchase transaction dollar volume generated by Student Customers using a Credit Card Account (excluding those transactions that relate to refunds, returns and unauthorized transactions).

#### E. GIP ACCOUNTS

1. \$15.00 (fifteen dollars) for each Gold GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer for at least one 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.
2. \$10.00 (ten dollars) for every Preferred GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer for at least one 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.

SCHEDULE D

Licensed Trademarks Are:

The University of Texas at Tyler Alumni Association

## ADDENDUM TO AFFINITY AGREEMENT

THIS ADDENDUM (the "Addendum") is entered into this 15<sup>th</sup> day of August, 2000, by and between University of Texas at Tyler Alumni Association ("Alumni Association") and MBNA America Bank, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, Alumni Association and MBNA America are parties to an affinity agreement dated December 15, 1995 and as may be further amended (the "Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of Alumni Association; and

WHEREAS, Alumni Association and MBNA America mutually desire to amend the Agreement to (i) extend the term of the Agreement; and (ii) to include the Gold Reserve Account ("Gold Reserve"), the Gold Option Account ("Gold Option") and the Money Market Deposit Account and Certificate of Deposit Account programs (the "Deposit Accounts") (a) as financial services provided by MBNA America, and (b) as another part of Alumni Association's Program or Financial Service Program, as the case may be, ("Program") under the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Alumni Association and MBNA America agree as follows:

1. The above recitals are incorporated herein and deemed a part of this Addendum.
2. The current term of the Agreement is hereby extended so as to end on December 15, 2005. Thereafter, the Agreement shall automatically extend at the end of the current 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) days, but not more than one hundred eighty (180) days prior to the last date of such term or renewal term, as applicable. This section shall replace all provisions concerning the term of the Agreement, the renewal of the Agreement and all notices required to not renew this Agreement.
3. The parties agree that as of October 1, 2000, Gold Reserve, Gold Option and Deposit Accounts (as each product is more fully described in Attachments 1, 2 and 3 respectively) (collectively, the "New Products") are now a part of the Program (as such product or Program may be adjusted or amended from time to time by MBNA America, in its sole discretion). MBNA America may, at its option, offer the New Products to some or all of the persons included on the lists provided by Alumni Association under the Agreement.
4. Alumni Association agrees to (i) exclusively endorse the New Products; and (ii) not sponsor, promote, aid, advertise or develop loan or deposit programs similar to those of the New Products. All Alumni Association's promises arising from its exclusive

arrangement with MBNA America in the Agreement shall also apply to the New Products.

5. During the term of the Agreement, Alumni Association will receive the royalties set forth on Attachments No. 1, 2 and 3 for the New Products opened pursuant to the Program.

6. Except as amended by this Addendum, all of the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum.

7. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument. The Agreement, as amended by this Addendum, contains the entire agreement of the parties with respect to the matters covered and no other or prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding.

IN WITNESS WHEREOF, each party hereto, by its representative, has executed this Addendum as of the date first above written, and such party and its representative warrant that such representative is duly authorized to execute and deliver this Addendum for and on behalf of such party.

UNIVERSITY OF TEXAS AT TYLER

ALUMNI ASSOCIATION

By: Amy M. Gould  
Name: Amy M. Gould  
Title: Alumni Coordinator  
Date: August 15, 2000

MBNA AMERICA BANK, N.A.

By: Michael Durroh  
Name: Michael Durroh  
Title: Senior Executive Vice President  
Date: August 30, 2000

## **Attachment No. 1**

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

### **I. 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 17.99%.

### **II. GOLD RESERVE ROYALTIES**

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.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that a Customer pays the annual fee on a Gold Reserve Account.

## Attachment No. 2

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

### I. 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 as low as 14.99%.

### II. GOLD OPTION ROYALTIES

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

### Attachment No. 3

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:

#### I 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.

#### II DEPOSIT ACCOUNT ROYALTIES

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

ADDENDUM

THIS ADDENDUM (the "Addendum") is entered into as of the 28<sup>th</sup> day of November 2005, by and between University at Texas at Tyler Alumni Association ("Alumni Association") and MBNA AMERICA BANK, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, Alumni Association and MBNA America are parties to an affinity agreement, as the same may have been amended (the "Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of Alumni Association; and

WHEREAS, Alumni Association and MBNA America mutually desire to extend the term of the Agreement and modify the Agreement as provided for herein to add the products defined below as another aspect of Alumni Association's Program, MemberCard Program or Financial Service Program, as the case may be (the "Program"), under the Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Alumni Association and MBNA America agree as follows:

1. The above recitals are incorporated herein and deemed a part of this Addendum. Capitalized terms used but not otherwise herein defined are used as defined in the Agreement.

2. The current term of the Agreement is hereby extended to end on November 1, 2009. Thereafter, the Agreement shall automatically extend at the end of the current 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) days, but not more than one hundred eighty (180) days, prior to the last date of such term or renewal term, as applicable. This Section shall replace all provisions concerning the term of the Agreement, the renewal of the Agreement, and all notices required to not renew this Agreement.

3. When used in this Addendum, the following terms have the following meaning:

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

(ii) "Business 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 business loan account opened by a Member in response to marketing efforts made pursuant to the Program.

(iii) "Business Reward Account" means a BusinessCard Credit Card Account or Business Card Account carrying the Business Reward Enhancement and opened pursuant to the Program.

(iv) "Business Reward Enhancement" means the travel/merchandise reward Business Credit Card Account enhancement as provided through MBNA America and offered as part of the Program for Business Reward Accounts. The Business Reward Enhancement may be marketed under another name as determined by MBNA America from time to time, in its sole discretion.

4. Notwithstanding anything to the contrary in the Agreement, effective November, 2005, Royalty for all types of consumer GIP Accounts shall be calculated as follows for those consumer GIP Accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment or Royalties by MBNA America. This Section shall replace all provisions concerning any and all Royalties for all types of GIP Accounts.

#### GIP ACCOUNTS

\$40.00 (forty dollars) for each consumer 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 consumer 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 consumer GIP Accounts will not qualify for any other opening-of-an-account Royalty.

5. During the term of the Agreement, Alumni Association will receive the royalties set forth on Attachment #1, attached hereto and incorporated herein by reference, for the Business Reward Credit Card Accounts, the Business Gold Reserve Accounts, and the Business Gold Option Accounts. Business Reward Credit Card Accounts, Business Gold Reserve Accounts, and Business Gold Option Accounts shall only generate the royalty compensation set forth on Attachment #1 notwithstanding any other provision of the Agreement.

6. The Agreement is amended to add the following provision:

#### 1. 2005 – 2009 ROYALTY ADVANCES.

a. Upon full execution of this Addendum, MBNA America will pay Alumni Association the sum of \$50,000 and upon each November 1, 2006, 2007, 2008, MBNA America shall pay to Alumni Association the sum of \$16,666 (collectively and each, an "Advance"), as an advance against Royalties earned beginning November 1, 2005 through and including October 31, 2009, subject to the provisions set forth below. All such Royalties accrued shall, in lieu of direct payment to Alumni Association, be applied against each of the Advances until such time as all Advances are fully recouped. Any Royalties accrued thereafter shall be paid to Alumni Association as set forth in this Agreement. Notwithstanding the foregoing, (x) MBNA America shall no longer be obligated to pay any additional Advances to Alumni Association hereunder, and (y) Alumni Association hereby promises to pay MBNA America upon demand an amount equal to the difference between the total amount of the Advance(s) paid by MBNA America and the total amount of accrued Royalties credited by MBNA America against such Advance(s) as of the date of such demand, in the event any of the conditions set forth in Clauses (i) through (iii) below should occur:

(i) the Agreement is terminated prior to November 1, 2009;

(ii) Alumni Association breaches any of its obligations under this Agreement;

(iii) MBNA America is prohibited from conducting on-campus promotion campaigns (e.g., tabling and postering) at major events during each consecutive twelve month period during the term of the Agreement.

b. Beginning November, 1 2006 through and including October 31, 2009, MBNA America recoups all prior Advances paid by it to Alumni Association during such term, and pays Alumni Association Royalties accrued by Alumni Association over and above the Royalties used by MBNA America to recoup such prior Advances (the "Paid Out Royalties"), then MBNA America may reduce the amount of any subsequent Advance(s) due by the amount of any such Paid Out Royalties.

2 2005 – 2009 ROYALTY GUARANTEE. Alumni Association shall be guaranteed to accrue Royalties (including without limitation the amount of the Advances) equal to or greater than One Hundred Thousand dollars (\$100,000) (the "Guarantee Amount") by the end of the full initial term of the Agreement, subject to the provisions set forth below. If on the last day of the full initial term of this Agreement Alumni Association has not accrued \$100,000 in Royalties, MBNA America will pay Alumni Association an amount equal to the Guarantee Amount minus the sum of all compensation accrued by Alumni Association during the initial term of this Agreement and all unrecouped Advances. Notwithstanding the foregoing, this Royalty Guarantee and any obligation of MBNA America hereunder shall be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection 2(a), above.

8. Except as amended by this Addendum, all the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument. The Agreement, as amended by this Addendum, contains the entire agreement of the parties with respect to the matters covered and no other prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding. Notwithstanding anything to the contrary in the Agreement, the Agreement, as amended by this Addendum, 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. Certain Financial Service Products or services under the Agreement may be offered through MBNA America's affiliates. For example, business credit cards are currently issued and administered by MBNA America (Delaware), N.A., and certain marketing services are currently provided by MBNA Marketing Systems, Inc.

IN WITNESS WHEREOF, each party hereto, by its representative, has duly executed this Addendum as of the date first above written, and such party and its representative warrant that such representative is duly authorized to execute and deliver this Addendum for and on behalf of such party.

University at Texas at Tyler Alumni Association

MBNA America Bank, N.A.

By: Dawn Franks

By: Sandra Wirt

Name: Dawn Franks

Name: SANDRA WIRT

Title: President

Title: SVP

Date: 2/15/06

Date: 9/19/06

SCHEDULE A

ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay UTAA 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. CONSUMER CREDIT CARD ACCOUNTS

1. \$3.00 (three dollars) for each new consumer Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$3.00 (three dollars) for each consumer Credit Card Account for which the annual fee is paid by the 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 consumer Credit Card Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that consumer Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. 0.50% (fifty basis points) of all retail purchase transaction dollar volume generated by Customers using a consumer 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. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using a consumer Reward 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, bets, lottery tickets, or casino gaming chips)).~~

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SW

A. BUSINESS REWARD ACCOUNTS

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

0.10% (ten basis points) of the retail purchase transaction dollar volume generated by Customers using a Business Reward Account with active charging privileges, excluding those transactions that (i) relate to refunds, returns and/or unauthorized transactions, and/or (ii) are cash equivalent transactions (e.g., the purchase of wire transfers, person-to-person money transfers, bets, lottery tickets, or casino gaming chips).

C. BUSINESS GOLD RESERVE ACCOUNTS

1. \$5.00 (five dollars) for each new Business Gold Reserve Account opened under the Program, which is utilized by the Customer for at least one transaction which is not subsequently rescinded or disputed.
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 certain Business Gold Reserve Accounts. This payment shall be calculated as of the end of each calendar year, based upon outstanding balances measured as of the end of each of the preceding calendar months of that year occurring during the term. Each monthly measurement shall include outstanding balances for only those Business Gold Reserve Accounts which are open with active charging privileges as of the last day of such month. This Royalty will be paid within sixty (60) days of the end of the calendar year.

*D.K.*  
*OK*  
*SW*

BUSINESS GOLD OPTION ACCOUNTS

1. \$5.00 (five dollars) for each new Business Gold Option Account opened under the Program, which is utilized by the Customer for at least one transaction which is not subsequently rescinded or disputed.
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 certain Business Gold Option Accounts. This payment shall be calculated as of the end of each calendar year, based upon outstanding balances measured as of the end of each of the preceding calendar months of that year occurring during the term. Each monthly measurement shall include outstanding balances for only those Business Gold Option Accounts which are open with active charging privileges as of the last day of such month. This Royalty will be paid within sixty (60) days of the end of the calendar year.

## **FIA CARD SERVICES**

**Via Overnight Delivery**

July 13, 2011

Ms. Susan Gilbert  
Coordinator of Alumni Affairs  
University of Texas at Tyler Alumni Association  
Alumni Association  
3900 University Boulevard  
Tyler, Texas 75799

Dear Ms. Gilbert:

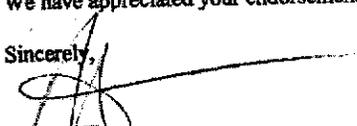
I am writing to inform you that following a comprehensive review of the University of Texas at Tyler Alumni Association credit card program, FIA Card Services, N.A. (f/k/a MBNA America Bank, N.A.) ("FIA") has decided not to renew our Affinity Agreement dated December 15, 1995, as the same has been amended ("Agreement").

This letter serves as FIA's written notice of non-renewal of the Agreement, as required by Section 9 of the Agreement, as amended by Section 2 of that certain Addendum to the Agreement dated November 28, 2005.

The Agreement's expiration date is November 1, 2011.

We have appreciated your endorsement.

Sincerely,

  
Agnes Mikus  
Vice President  
FIA Card Services, N.A.