

**UNIVERSITY OF WESTERN ONTARIO
AFFINITY AGREEMENT**

This Agreement is entered into as of this 5th day of December, 2003, (the "Effective Date") by and between MBNA AMERICA BANK, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("MBNA America"), and UNIVERSITY OF WESTERN ONTARIO, an educational institution having its principal place of business in London, Ontario, Canada ("University") 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 and Attachment #1.
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program.
- (c) "Customer" means any Member who is a participant in the Program.
- (d) "Financial Service Products" means credit card programs, charge card programs, debit card programs, installment loan programs, revolving loan programs, deposit programs, long distance calling card programs, and travel and entertainment card programs.
- (e) "Group Incentive Program " or "GIP" means any marketing or other program whereby University 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 University complies with the GIP provisions of this Agreement.
- (g) "Law" means any and all applicable provisions of any law, statute, code, regulation, tax convention or treaty, as any of the same may be amended, revised or augmented from time to time.
- (h) "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 and e-mail addresses of Members segmented by zip codes or reasonably selected membership characteristics.
- (i) MBNA Canada Agreement means the agreement by and between University and MBNA Canada dated September 30, 2002.
- (j) "Member" means alumni of University, a member of University's alumni association, friends, faculty and staff of University, fans, ticket holders, donors and contributors of any

University athletic team or athletic department and/or other potential participants mutually agreed to by University and MBNA America.

(k) "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.

(l) "Royalties" means the compensation set forth in Schedule B.

(m) "Trademarks" means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by University during the term of this Agreement.

(n) "United States" means the United States of America and its territories and possessions.

2. RIGHTS AND RESPONSIBILITIES OF UNIVERISTY

(a) University agrees that during the term of this Agreement it will endorse the Program exclusively in the United States and University shall not, by itself or in conjunction with others, directly or indirectly in the United States: (i) sponsor, advertise, aid, develop, market, solicit proposals for programs offering, or discuss with any organization (other than MBNA America) the providing of, any Financial Service Products of any organization other than MBNA America; (ii) 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 (iii) 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 or current or potential undergraduate and/or graduate students of University in relation to or for promoting any Financial Service Products of any entity other than MBNA America. Notwithstanding anything else in this Agreement to the contrary, University may accept print advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by University of said financial institution or the advertised Financial Service Product.

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

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

(d) University shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain University's Trademark; such approval shall not be unreasonably withheld or delayed. In the event that MBNA America incurs a cost because of a change in the Trademarks (e.g., the cost of reissuing new credit cards), MBNA America may deduct such costs from Royalties due University. In the event such costs exceed Royalties then due University, University shall promptly reimburse MBNA America for all such costs.

(e) Upon the request of MBNA America, University shall provide MBNA America with Mailing Lists free of any charge; provided, however, that University shall not include in any Mailing List the name and/or related information regarding (i) any person who has expressly requested that University not provide his/her personal information to third parties, or (ii) any person who has not consented in accordance with applicable law of Canada of the Province of Ontario to University's sharing of his/her personal information with third parties for purposes such as contemplated by this Agreement. In the event that MBNA America incurs a cost because of a charge assessed by University or its agents for an initial Mailing List or an update to that list, MBNA America may deduct such costs from Royalties due University. University shall provide the initial Mailing List, containing at least five thousand (5,000 non-duplicate names with corresponding postal addresses and, when available, telephone numbers and e-mail addresses of Members as soon as possible but no later than thirty (30) days after University's execution of this Agreement.

(f) University 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 University. Notwithstanding the above, University may respond to individual inquiries about the Program from its Members on an individual basis, provided that said responses are accurate and consistent with the then-current materials provided by MBNA America to University. Any correspondence received by University that is intended for MBNA America (e.g., applications, payments, billing inquiries, etc.) shall be forwarded to the MBNA America account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by MBNA America.

(g) University 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 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. University shall provide MBNA America all Trademark production materials (e.g., camera ready art) required by MBNA America for the Program, as soon as possible but no later than thirty (30) days after University's execution of this Agreement. Nothing stated in this Agreement prohibits University 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) University shall permit MBNA America to advertise the Program on its home page and at other prominent locations within the internet site of University. MBNA America may establish a "hot-link" from such advertisements to another internet site to enable a person to apply for a Credit Card Account. Any Credit Card Account generated pursuant to such a "hot-link" shall entitle University to the GIP compensation set forth on Schedule B, subject to the other terms and conditions of this Agreement. University shall modify or remove such advertisements within twenty-four (24) hours of MBNA America's request.

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 University.
- (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 University.
- (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 University. However, MBNA America may maintain separately all information which it obtains as a result of an account relationship or an application for an account relationship. This information becomes a part of MBNA America's own files and shall not be subject to this Agreement; provided however that MBNA America will not use this separate information in a manner that would imply an endorsement by University.

4. REPRESENTATIONS AND WARRANTIES

- (a) University 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) University 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. University will hold MBNA America, its directors, officers, agents, employees, affiliates, successors and assigns harmless from and against all liability, causes of action, and claims, and will reimburse MBNA America's reasonable and actual costs in connection therewith, 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 relating to such license or the use of any Trademarks.

(c) University will perform this Agreement in accordance with all applicable law, which shall be deemed to include, without limitation, the Canadian *Personal Information Protection and Electronic Documents Act*.

5. ROYALTIES

(a) During the term of this Agreement, MBNA America shall pay Royalties to University. Royalties will not be paid without a completed Schedule C (W-9 Form and EFT Form). 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. All Royalties accrued shall, in lieu of direct payment to University, be applied against the Advance as defined and provided for in the MBNA Canada Agreement until such time as the Advance is fully recouped. Any Royalties accrued thereafter shall be paid to University as set forth in this Agreement.

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

Notwithstanding the foregoing, all Royalties shall be converted to Canadian Dollars before they are applied against Advances or otherwise paid to University. For each quarter, the conversion rate shall be a fraction, the numerator of which is the sum of the daily exchange rates for each business day during the quarter as published in the *Wall Street Journal* and the denominator of which is the number of business days in the calendar quarter for which a corresponding exchange rate was published.

(c) Notwithstanding any other provision of the Agreement: (i) MBNA America may deduct and withhold from all Royalty amounts otherwise payable to University under the Agreement, such amounts as shall be deemed by MBNA America to be necessary or appropriate to comply with any and all applicable provisions of any Law; and (ii) MBNA America may remit any and all such withheld amounts to the appropriate authorities in accordance with such Laws. All such withheld and/or remitted amounts shall be deducted from the Royalties otherwise due University under the Agreement, and shall be deemed to have been paid to University for all other purposes of the Agreement.

6. PROGRAM ADJUSTMENTS

A summary of the current features of the Program are set forth in Schedule A. MBNA America reserves the right to make periodic adjustments to the Program and its terms and features.

7. CONFIDENTIALITY OF AGREEMENT

The terms of this Agreement, any proposal, financial information and proprietary information provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other party to any other person or entity, except as permitted under this Agreement or as mutually agreed in writing. MBNA America and University 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, provided that University agrees to: (x) immediately notify MBNA America of the existence, terms and circumstances surrounding such request; (y) consult with MBNA America on the advisability of taking legally available steps to resist or narrow such request; and (z) if disclosure of such Information is required or deemed advisable, exercise its best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the Information to be disclosed which MBNA America designates.

8. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on the earlier of the termination or expiration of the MBNA Canada Agreement or **July 1, 2007**. 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) days, but not more than one hundred eighty (180) days, prior to the last date of such term or renewal term, as applicable.

9. STATE LAW GOVERNING AGREEMENT

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

10. TERMINATION

(a) In the event of any material breach of this Agreement by MBNA America or University, 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 University becomes insolvent in that its liabilities exceed its assets, or is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Agreement.

(c) Upon termination of this Agreement, MBNA America shall, in a manner consistent with Section 10(d) of this Agreement, cease to use the 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 conclude all solicitation that is required by law.

(d) MBNA America shall have the right to prior review and approval of any notice in connection with, relating or referring to the termination of this Agreement to be communicated by University to the Members. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, University shall not attempt to cause the removal of University'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.

(e) In the event that a material change in any applicable law, statute, operating rule or regulation, or any material change in any operating rule or regulation of either VISAS or MasterCard makes the continued performance of this Agreement under the then current terms and conditions unduly burdensome, then MBNA America shall have the right to terminate this Agreement upon ninety (90) days advance written notice. Such written notice shall include an explanation of the burden imposed as a result of such change.

(f) For a one (1) year period following the termination of this Agreement for any reason, University agrees that neither University nor any University Affiliate shall, by itself or in conjunction with others, directly or indirectly, specifically target any offer of a credit or charge card, or a credit or charge card related product to persons who were Customers. Notwithstanding the foregoing, University may, after termination of this Agreement, offer persons who were Customers the opportunity to participate in another credit or charge card program endorsed by the University provided the opportunity is not only made available to such persons but rather as a part of a general solicitation to all Members and provided further no such persons are directly or indirectly identified as a customer of MBNA America, or offered any terms or incentives different from that offered to all Members.

11. 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 University pursuant to any GIP. In that regard, University shall give MBNA America sixty (60) days prior notice of its desire to engage in marketing efforts regarding the Program itself, specifying that accounts generated from such efforts will entitle University 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 University 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 University pursuant to any GIP. MBNA America shall have approval and control of the scope, timing, content and continuation 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 University pursuant to any GIP shall be deducted from any or all Royalty payments due University under this Agreement.

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

Should we not include indemnification language ?

12. INDEMNIFICATION

University and MBNA America each will indemnify and hold harmless the other party, its directors, officers, agents, employees, affiliates, successors and assigns 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), resulting from the material breach of this Agreement by University or MBNA America, respectively as the case may be, or its directors, officers or employees. 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.

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 4(b), 7, 10(c), 10(d) and 10(f) 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:

THE UNIVERSITY OF WESTERN ONTARIO
1151 Richmond Street
London, Ontario
Canada N6A 5B8
ATTENTION: Ted Garrard, Vice President (External)

Fax #: (519) 661-3139

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.
Rodney Square
Wilmington, Delaware 19884

ATTENTION: Director of National Sales

Fax #: (302) 432-0262

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

(g) This Agreement contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior promises and agreements, written or oral, with respect to the matters covered herein. MBNA America may utilize the services of any third party in fulfilling its obligations under this Agreement. Certain Financial Service Products or services under this 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.

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

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

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

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

UNIVERSITY OF WESTERN ONTARIO

MBNA AMERICA BANK, N.A.

By: Ted Gannard

By: Frank M. Christie

Name: TEO GANNARD

Name: FRANK M. CHRISTIE

Title: VICE-PRESIDENT EXTERNAL

Title: SEVP

Date: December 8, 2003

Date: 20 Jan 2004

SCHEDULE A

TERMS AND FEATURES

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

A. CREDIT CARD ACCOUNTS

1. There is NO annual fee.
2. For Credit Card Accounts, the current annual percentage rate will be a fixed rate of 12.99%.
3. Customers may be offered opportunities to purchase a variety of communication services and to select credit insurance as a benefit under the Program.

SCHEDULE B

ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay University a Royalty calculated as follows, for those accounts with active charging privileges. All amounts set out below are in United States dollar values, and are inclusive of any taxes that may apply. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of Royalties by MBNA America:

A. CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$1.00 (one dollar) for each 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. 0.35% (thirty five one hundredths of one percent) of all retail purchase transaction dollar volume generated by Customers using 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, money orders, bets, lottery tickets, or casino gaming chips)).

B. GIP ACCOUNTS

\$35.00 (thirty 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 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.

FIA CARD SERVICES™

Via Facsimile

March 17, 2011

Mr. Ted Garrard
Vice President (External)
The University of Western Ontario
1151 Richmond Street
London, Ontario
Canada N6A 5B8

Dear Mr. Garrard:

I am writing to inform you that following a comprehensive review of the University of Western Ontario 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 as of December 8, 2003, as the same may have been amended ("Agreement").

This letter serves as FIA's written notice of non-renewal of the Agreement, as required by Section 8 of the Agreement.

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

We have appreciated your endorsement.

Sincerely,



Alex J. McLaughlin
Vice President
FIA Card Services, N.A.

C: Mr. Gary Blazak, Executive Director, Alumni Relations and Development
University of Western Ontario
Westminster Hall, Suite 160
London, Ontario
Canada N6A 3K7

Mr. Kevin Goldthorp, Vice President (External)
University of Western Ontario
Stevenson Hall
London, Ontario, Canada, N6A 5B8