

ASSOCIATED STUDENTS INCORPORATED,  
CALIFORNIA STATE UNIVERSITY- LONG BEACH  
AFFINITY AGREEMENT

This Agreement is entered into as of this 1<sup>st</sup> day of July, 1997 (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 ASSOCIATED STUDENTS INCORPORATED, CALIFORNIA STATE UNIVERSITY- LONG BEACH, having its principal place of business in Long Beach, California ("ASI-CSULB") 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 (which is a W-9 tax identification form).
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program.
- (c) "Customer" means any Member who is a participant in the Program.
- (d) "Financial Service Products" means credit card programs, charge card programs, installment loan programs and revolving loan programs.
- (e) "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.
- (f) "Member" means undergraduate students and graduate students of California State University-Long Beach, and/or other potential participants mutually agreed to by ASI-CSULB and MBNA America.
- (g) "Program" means those programs and services of the Financial Service Products MBNA America agrees to offer pursuant to this Agreement to the Members from time to time.
- (h) "Royalties" means the compensation set forth in Schedule B.
- (i) "Trademarks" means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by ASI-CSULB during the term of this Agreement.

## 2. RIGHTS AND RESPONSIBILITIES OF ASI-CSULB

- (a) ASI-CSULB agrees that during the term of this Agreement: (i) it will endorse the Program exclusively and will not sponsor, advertise, aid, develop or solicit any Financial Service Products of any organization other than MBNA America; and (ii) it will not license or allow others to license the 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. Notwithstanding anything else in this Agreement to the contrary, ASI-CSULB may accept advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by ASI-CSULB of said financial institution or the advertised Financial Service Product.
- (b) ASI-CSULB agrees to provide MBNA America with such information and assistance as may be reasonably requested by MBNA America in connection with the Program.
- (c) ASI-CSULB authorizes MBNA America to solicit its Members by mail, advertisements and on campus promotion.
- (d) ASI-CSULB shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain ASI-CSULB's Trademark; such approval shall not be unreasonably withheld or delayed.
- (e) Upon the request of MBNA America, ASI-CSULB 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 ASI-CSULB or its agents for an initial Mailing List or an update to that list, MBNA America may deduct such costs from Royalties due ASI-CSULB. The initial Mailing List shall contain at least twenty five thousand (25,000) names with corresponding postal addresses.
- (f) ASI-CSULB 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 ASI-CSULB. Notwithstanding the above, ASI-CSULB 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 ASI-CSULB. Any correspondence received by ASI-CSULB 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) ASI-CSULB 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. Nothing stated in this Agreement prohibits ASI-CSULB 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.

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 ASI-CSULB.
- (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 ASI-CSULB.
- (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 ASI-CSULB. 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 ASI-CSULB.
- (f) MBNA America may, upon each Customer's graduation from California State University-Long Beach ("CSU-LB") or when MBNA America reasonably determines, in its sole discretion, that each Customer should have graduated from CSU-LB (regardless of whether such graduation occurs), convert each Credit Card Account to a credit card account under a credit card affinity program that MBNA America has developed with California State University-Long Beach Alumni Association (each a "Converted Account"). Proof of such graduation is not required, nor is MBNA America required to notify ASI-CSULB of the conversion of each Credit Card Account. ASI-CSULB understands and agrees that each Credit Card Account converted to a Converted Account will no longer be governed by this Agreement and that Converted Accounts, if any, will not qualify for the Royalties set forth in this Agreement.

#### 4. REPRESENTATIONS AND WARRANTIES

(a) ASI-CSULB 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) ASI-CSULB 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. ASI-CSULB 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.

#### 5. ROYALTIES

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

(b) On or before the forty fifth (45th) day after the end of each calendar quarter during the term of this Agreement, MBNA America will provide ASI-CSULB 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.

6. PROGRAM ADJUSTMENTS

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

7. CONFIDENTIALITY OF AGREEMENT

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

8. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on March 1, 2004. 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 ASI-CSULB, 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 ASI-CSULB 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 ASI-CSULB to the Members. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, ASI-CSULB shall not attempt to cause the removal of ASI-CSULB'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.

#### 11. MISCELLANEOUS

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

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

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

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

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

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

(1) If to ASI-CSULB:

ASSOCIATED STUDENTS, INCORPORATED,  
CALIFORNIA STATE UNIVERSITY, LONG BEACH  
1212 Bellflower Boulevard Suite 220  
Long Beach, CA 90815-4199

ATTENTION: Fred Sanchez

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.  
Wilmington, DE 19884

ATTENTION: John Richmond  
Senior Executive Vice President

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

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

(h) MBNA America and ASI-CSULB 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.

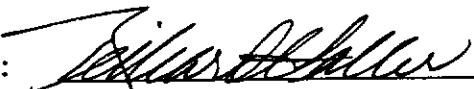
(i) Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than ASI-CSULB and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Agreement.

(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.

ASSOCIATED STUDENTS INCORPORATED, MBNA AMERICA BANK, N.A.  
CALIFORNIA STATE UNIVERSITY  
- LONG BEACH

By: 

Name: RICHARD HALLER

Title: DIRECTOR

By: 

Name: JOHN C RICHMOND

Title: Sr. Ex. 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 9.9%. For variable rate accounts, there may be an additional margin applied on account of the Customer's delinquency.
3. 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 ASI-CSULB a Royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of Royalties by MBNA America:

#### A. CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$1.00 (one dollar) for each 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 ASI-CSULB 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 ASI-CSULB Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. 0.40% (four tenths of one percent) 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, money orders, bets, lottery tickets, or casino gaming chips)).

#### B. ROYALTY ADVANCE/GUARANTEE

1. Upon the completion of the first Full Marketing Campaign (as defined herein) by MBNA America, and upon the second, third, fourth and fifth annual anniversaries of the Effective Date, MBNA America shall pay to ASI-CSULB the sum of eighteen thousand dollars (\$18,000.00) (each, an "Advance"), as an advance against Royalties, subject to the provisions set forth below. For the first five years of the Agreement Royalties accrued shall, in lieu of direct payment to ASI-CSULB, be applied against the applicable Advance until such time as such Advance is fully recouped. Any Royalties accrued thereafter shall be paid to ASI-CSULB as set forth in this Agreement. Notwithstanding the foregoing, (x) MBNA America shall no longer be obligated to pay any additional Advances to ASI-CSULB hereunder, and (y) ASI-CSULB 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 (v) below should occur:

- (i) the Agreement is terminated prior to the end of the initial term as stated in this Agreement as of the Effective Date;
  - (ii) ASI-CSULB breaches any of its obligations under this Agreement;
  - (iii) MBNA America is prohibited or otherwise prevented from conducting at least three (3) direct mail campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement; and
  - (iv) 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; and
  - (v) ASI-CSULB has not provided MBNA America with all of the marketing components necessary for a Full Marketing Campaign (e.g., a complete Mailing List) within ninety (90) days of the Effective Date.
2. If during any given year(s) during the initial term of this Agreement MBNA America recoups all prior Advances paid by it to ASI-CSULB in prior years, and pays ASI-CSULB Royalties accrued by ASI-CSULB 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.
3. A "Full Marketing Campaign" consists of a direct mail campaign to the full updated Mailing List.
4. If on the last day of an Agreement year (during the first five years of the Agreement) ASI-CSULB has not accrued \$18,000.00 in Royalties during that year and none of the conditions set forth in Section B.1 above have occurred, ASI-CSULB may retain that year's Advance.

#### C. ADDITIONAL PAYMENT

During the initial term of this agreement, and as long as ASI-CSULB is not in breach of the Agreement, MBNA America shall pay ASI-CSULB an additional Five Hundred Dollars (\$500.00) per year, which sum shall not be applied toward the Royalty Guarantee or be considered an advance.

# FIA CARD SERVICES®

**Via Overnight Delivery**

October 15, 2010

Mr. Fred Sanchez  
Associated Students, Incorporated  
California State University, Long Beach  
1212 Bellflower Boulevard Suite 220  
Long Beach, CA 90815-4199

Dear Mr. Sanchez:

I am writing to inform you that following a comprehensive review of the Associated Students, Inc. California State University, Long Beach 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 entered into as of July 1, 1997, as the same may have been amended ("Agreement").

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

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

We have appreciated your endorsement.

Sincerely,



Travis Cyr  
Account Executive  
FIA Card Services, N.A.

C: Ms. Bridgette Young  
Development Associate  
Associated Students, Incorporated  
California State University, Long Beach  
1212 Bellflower Blvd., Suite 220  
Long Beach, CA 90815