

**FINITY AGREEMENT**  
**NORTH DAKOTA STATE UNIVERSITY ALUMNI ASSOCIATION**

This Agreement is entered into as of this 24<sup>th</sup> day of August, 2006 (the "Effective Date") by and between FIA CARD SERVICES, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("Bank"), and NORTH DAKOTA STATE UNIVERSITY ALUMNI ASSOCIATION, a public state university alumni association having its principal place of business in Fargo, North Dakota ("NDSUAA"), for themselves, and their respective successors and assigns.

1. DEFINITIONS

When used in this Agreement,

- (a) "Agreement" means this agreement and Schedules A and B.
- (b) "Credit Card Account" means a credit card account opened in response to marketing efforts made pursuant to the Program. A "Student Credit Card Account" is a Credit Card Account which MBNA designates as being opened by a Student Customer.
- (c) "Gold Option Account" means a GoldOption® (as such service mark may be changed by Bank, 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.
- (d) "Gold Reserve Account" means a GoldReserve® (as such service mark may be changed by Bank, 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.
- (e) "Customer" means any Member who is a participant in the Program.
- (f) "Eligible Royalties" means all Royalties that accrue and are payable under Schedule A of the Agreement, with the exception of those Royalties that accrue and are payable pursuant to Section F. of Schedule A.
- (g) "Financial Service Product" means any credit card program, charge card program, debit card program, installment loan program, revolving loan program, deposit program and travel and entertainment card program.
- (h) "Mailing List" means an updated and current list and/or magnetic tape (in a format designated by Bank) containing non-duplicate names (including without limitation names of business owners or authorized officers), with corresponding valid postal addresses and, when available, telephone numbers (including area codes) and as agreed to by both parties, e-mail addresses of all Members who are at least eighteen (18) years of age, segmented by zip codes or reasonably selected membership characteristics.
- (i) "Member" means a member of NDSUAA and/or other potential participants mutually agreed to by NDSUAA and Bank.

- (j) "Program" means those programs and services of the Financial Service Products Bank agrees to offer pursuant to this Agreement to the Members from time to time.
- (k) "Royalties" means the compensation set forth in Schedule A.
- (l) "Trademarks" means NDSUAA name and any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by NDSUAA or any NDSUAA Affiliate during the term of this Agreement.
- (m) "NDSUAA Affiliate" means any entity which, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with NDSUAA.
- (n) "Reward Credit Card Account" means a consumer Credit Card Account carrying the Reward Enhancement and opened pursuant to the Program.
- (o) "Reward Enhancement" means the loyalty reward consumer Credit Card Account enhancement as provided through Bank and offered as part of the Program for Reward Credit Card Accounts. The Reward Enhancement may be marketed under another name (e.g. World Points), as determined by Bank from time to time, in its sole discretion.
- (p) "Student Customer" means any Member who is a student participant in the Program.
- (q) "Group Incentive Program" or "GIP" means any marketing or other program whereby NDSUAA conducts and funds solicitation efforts for the Program, and the parties mutually agree that such marketing or other program shall constitute a GIP.
- (r) "GIP Account" means a consumer Credit Card Account opened pursuant to a GIP in which NDSUAA complies with the GIP provisions of this Agreement.
- (s) "Reward GIP Account" means a consumer Reward Credit Card Account opened pursuant to a GIP in which NDSUAA complies with the GIP provisions of the Agreement.
- (t) "Student GIP Account" means a Student Customer Credit Card Account opened pursuant to a GIP in which NDSUAA complies with the GIP provisions of this Agreement.

## 2. RIGHTS AND RESPONSIBILITIES OF NDSUAA

- (a) NDSUAA agrees that during the term of this Agreement it will endorse the Program exclusively and that neither NDSUAA nor any NDSUAA Affiliate shall, by itself or in conjunction with others, directly or indirectly: (i) sponsor, advertise, aid, develop, market, solicit proposals for programs offering, or discuss with any organization (other than Bank) the providing of, any Financial Service Products of any organization other than Bank; (ii) license or allow others to license or use the Trademarks in relation to or for promoting any Financial Service Products of any entity other than Bank; and (iii) sell, rent or otherwise make available or allow others to sell, rent or otherwise make

available any of its 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 Bank. Notwithstanding anything else in this Agreement to the contrary, NDSUAA may accept print advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by NDSUAA of said financial institution or advertising for a Financial Service Product.

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

(c) NDSUAA authorizes Bank to solicit Members by mail, direct promotion, internet, email, as mutually agreed to, advertisements and/or telephone for participation in the Program.

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

(e) Within thirty (30) days following the request of Bank, and no more than four times per year during each year of the Agreement, or as otherwise mutually agreed to, NDSUAA shall provide Bank with the Mailing List free of any charge; provided, however, that NDSUAA shall not include in any Mailing List the name and/or related information regarding any person who has expressly requested that NDSUAA not provide his/her personal information to third parties. In the event that Bank incurs a cost because of a charge assessed by NDSUAA or its agents for an initial Mailing List or an update to that list, Bank may deduct such costs from Royalties due NDSUAA. NDSUAA shall provide the first Mailing List, containing at least seventy-five thousand (75,000) non-duplicate names with all corresponding information, as soon as possible but no later than thirty (30) days after NDSUAA's execution of this Agreement.

(f) NDSUAA shall, and shall cause any NDSUAA Affiliates to, only provide information to or otherwise communicate with Members or potential Members about the Program with Bank's prior written approval, except for current advertising and solicitation materials provided by Bank to NDSUAA. Notwithstanding the above, NDSUAA 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 Bank to NDSUAA. Any correspondence received by NDSUAA that is intended for Bank (e.g., applications, payments, billing inquiries, etc.) shall be forwarded to the Bank account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by Bank.

(g) NDSUAA hereby grants Bank 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. Bank will provide sixty (60) days prior notice of any 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. NDSUAA shall provide Bank all Trademark production materials (e.g., camera ready art) required by Bank for the Program, as soon as possible but no later than thirty (30) days after NDSUAA's execution of this Agreement. Nothing stated in this Agreement prohibits NDSUAA 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) NDSUAA shall permit Bank to advertise the Program on its home page and at other prominent locations within the internet site(s) of NDSUAA. Bank 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 Accounts generated pursuant to such a "hot-link" shall entitle NDSUAA to the GIP compensation set forth in Schedule A, subject to the other terms and conditions of this Agreement. NDSUAA shall modify or remove such advertisements within twenty-four (24) hours of Bank's request. NDSUAA shall provide Bank with the ability to access any and all pages within the NDSUAA internet site(s), including without limitation any "members only" or other restricted access pages.

### 3. RIGHTS AND RESPONSIBILITIES OF BANK

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

(b) Bank shall design all advertising, solicitation and promotional materials with regard to the Program. Bank 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 NDSUAA.

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

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

(e) Bank 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. Bank 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 NDSUAA. However, Bank 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 Bank's own files and shall not be subject to this Agreement; provided however that Bank will not use this separate information in a manner that would imply an endorsement by NDSUAA.

(f) Subject to applicable law and regulation, Bank has the right to place Trademarks on gifts for individuals completing applications and on other premium items, including without limitation t-shirts, hats, "bobbleheads," or other items suitable in Bank's judgment for the solicitation of Credit Card Account applications. NDSUAA shall have final approval of the use and appearance of the Trademarks used on such materials, but hereby grants Bank the right to use

such approved materials at Bank's discretion. Bank shall not be required to pay amounts to any third party (e.g., any producer, licensor(ee) or manufacturer of such gifts and premiums) as royalties or other compensation otherwise due directly or indirectly to or on behalf of NDSUAA or an NDSUAA Affiliate for such gifts or premiums. NDSUAA agrees to waive such payments from any such third party(ies) (and/or to cause the usual recipient(s) of such payments to waive such payments), and to execute and deliver (and/or to cause the usual recipient(s) of such payments to execute and deliver) to Bank such additional documentation as may be necessary or appropriate to give effect to this waiver. If a third party should refuse to give effect to NDSUAA's waiver by reducing the price to Bank for such gifts or premiums by the applicable amount (or any person shall otherwise prevent the realization of this benefit by Bank), then Bank is entitled to deduct such applicable amount(s) from all Royalties and/or Advance payments otherwise due NDSUAA.

#### 4. REPRESENTATIONS AND WARRANTIES

(a) NDSUAA and Bank 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 negotiation, execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.

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

(b) NDSUAA and Bank each will indemnify and hold harmless the other party, its directors, officers, agents, employees, affiliates, insurers, 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 NDSUAA or Bank, 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.

NDSUAA represents and warrants to Bank as of the date hereof and throughout the term of this Agreement that it has the right and power to license the Trademarks to Bank for

use as contemplated by Agreement, and to provide the Mailing List(s) to Bank for the promotion of the Program. NDSUAA will hold Bank, its directors, officers, agents, employees, affiliates, successors and assigns harmless from and against all liability, causes of action, and claims, and will reimburse Bank's reasonable and actual costs in connection therewith (including attorneys' fees), arising from the Trademark license granted herein or from Bank's use of the Trademarks in reliance thereon, or from the use of any Mailing List(s) by Bank for the promotion of the Program. 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, Bank shall pay Royalties to NDSUAA. Royalties will not be paid without a completed Schedule B (W-9 Form and EFT Form). Except as otherwise provided in Schedule A, 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, Bank will provide NDSUAA with a statement showing: (i) the number of consumer Credit Card Accounts opened, the number of consumer Credit Card Accounts renewed and (ii) the retail purchase transaction dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar quarter on consumer Credit Card Accounts.

## 6. PROGRAM ADJUSTMENTS

Bank reserves the right to make periodic adjustments to the Program and its terms and features. In addition, Customers may be offered opportunities to select credit protection as a benefit under the Program and other services.

## 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. Bank and NDSUAA 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 requested by any governmental regulatory authority.

In the event the NDSUAA receives a request to disclose any or all of the Information pursuant to an open records law, NDSUAA agrees to: (a) immediately notify Bank of the existence, terms and circumstances surrounding such request; (b) consult with Bank on the advisability of taking legally available steps to resist or narrow such request; (c) if disclosure of such Information is required or deemed advisable, exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded to such portion of the Information to be disclosed which Bank designates; (d) only disclose requested Information to the extent that the request was made in accordance with applicable law (e.g., filed properly); and (e) ensure that the disclosed Information is limited to only the Information required under applicable law.

#### 8. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on September 30, 2013. Bank shall give notice one (1) year prior to the expiration of the initial term indicating its desire to renew or terminate the Agreement. If Bank's intent is to renew the Agreement, NDSUAA shall grant Bank a six (6) month period to negotiate such renewal on an exclusive basis. If NDSUAA and Bank do not reach an agreement for renewal of the Agreement during the six (6) month exclusive period, NDSUAA shall have the right to request proposals and engage in contract negotiations with third parties. If terms hereof are to be amended in connection with any renewal, any appropriate addendum shall be added hereto reflecting, as applicable, the revised terms hereof.

#### 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.

Alternative Dispute Resolution. NDSUAA and Bank hereby waive their rights to resolve disputes through any court proceeding or litigation and acknowledge that all disputes shall be resolved pursuant to this section, except that equitable relief may be sought pursuant to Section 7 from any court of competent jurisdiction. Both parties represent to the other that this waiver is made knowingly and voluntarily after consultation with and upon the advice of counsel and is a material part of this Agreement.

Informal Dispute Resolution. Any controversy or claim between NDSUAA, on the one hand, and Bank on the other hand, arising from or in connection with this Agreement or the relationship of the parties under this Agreement whether based on contract, tort, common law, equity, statute, regulation, order or otherwise ("Dispute") shall be resolved as follows:

- a. Upon written request of either NDSUAA, on the one hand, and Bank on the other hand, a duly appointed representative(s) of each party will meet for the purpose of attempting to resolve such Dispute. Should they be unable to resolve the Dispute, the President of Alumni Association (or his/her designee) will meet with Bank's Executive Vice President of Marketing (the "Executives") in an effort to resolve the Dispute. Said meeting shall be in person or by telephone.

- b. The Executives shall meet as often as the parties agree to discuss the problem in an effort to resolve the Dispute without the necessity of any formal proceeding.
- c. Formal proceedings for the resolution of a Dispute may not be commenced until the earlier of:
  - i. the parties concluding in good faith that amicable resolution through the procedures set forth in subsections (a)-(b) hereof does not appear likely; or
  - ii. the expiration of the thirty-five (35) day period immediately following the initial request to negotiate the Dispute.

provided, however, that this Section will not be construed to prevent a party from instituting formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors or to seek temporary or preliminary injunctive relief. The commencement of a proceeding pursuant to this provision does not relieve a party from the executive consultation requirement contained in this Section.

#### 10. TERMINATION

- (a) In the event of any material breach of this Agreement by Bank or NDSUAA, 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 Bank or NDSUAA becomes insolvent in that its liabilities exceed its assets or it is unable to meet or it has ceased paying its obligations as they generally become due, or it is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Agreement.
- (c) Upon termination of this Agreement, Bank shall, in a manner consistent with Section 10(d) of this Agreement, cease to use the Trademarks. Bank 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, Bank may conclude all solicitation that is required by law.
- (d) Bank shall have the right to prior review of any notice in connection with, relating or referring to the termination of this Agreement to be communicated by NDSUAA or

any NDSUAA Affiliate or the Members. Upon termination of this Agreement, NDSUAA shall not attempt to cause the removal of NDSUAA'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 any material change in any applicable law, statute, operating rule or regulation, or any material change in any operating rule or regulation of VISA, MasterCard or American Express makes the continued performance of this Agreement under the then current terms and conditions unduly burdensome, then Bank shall have the right to terminate this Agreement upon ninety (90) days advance written notice. Such written notice shall include an explanation and evidence 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, NDSUAA agrees that neither NDSUAA nor any NDSUAA 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, NDSUAA may, after termination of this Agreement, offer persons who were Customers the opportunity to participate in another credit or charge card program endorsed by NDSUAA 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 Bank, or offered any terms or incentives different from that offered to all Members.

#### 11. GROUP INCENTIVE PROGRAM

(a) Bank shall design all advertising, solicitation and promotional material with regard to the Program, except with respect to those materials designed by NDSUAA pursuant to any GIP. In that regard, NDSUAA shall give Bank 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 NDSUAA to the Royalty specified in Schedule A, subject to the other terms and conditions of this Agreement.

(b) All marketing materials generated as a result of such GIP programs shall be coded by NDSUAA as instructed by Bank 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 A.

(c) In addition to all other rights it may have under this Agreement, Bank shall have the right of prior approval of all advertising and solicitation materials distributed by NDSUAA pursuant to any GIP. Bank shall have approval and control of the scope, timing, content and continuation of any GIP.

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

(e) NDSUAA shall comply with Bank'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.

12. 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 NDSUAA:

North Dakota State University Alumni Association  
1241 North University Drive  
Fargo, North Dakota 58105

ATTENTION: Ms. Sherri Schmidt  
Associate Alumni Director

Fax #: (701)-231-6801

(2) If to Bank:

FIA Card Services, N. A.  
1100 North King Street  
Wilmington, Delaware 19884

ATTENTION: Director of National Sales

Fax #: (302) 432-0469

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. Without the prior written consent of Bank, which shall not be unreasonably withheld, NDSUAA may not assign any of its rights or obligations under or arising from this Agreement. Bank may assign any of its rights or obligations under this Agreement to any other person without the prior consent of NDSUAA. Bank 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 Bank's affiliates.

(h) Bank and NDSUAA 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 NDSUAA and Bank, 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 or other labor disputes, 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.

NORTH DAKOTA STATE  
UNIVERSITY ALUMNI  
ASSOCIATION

FIA CARD SERVICES, N.A.

By: James C. Miller

By:

Name: James C. Miller

Name:

Lou Zicarelli

OCT/10/2006/TUE 05:05 PM NDSU ALUMNI  
OCT-10-2006 TUE 04:25 PM FIA Card Services

FAX No. 701-231-6  
FAX NO. 3024321380

P. 005  
P. 04

Title: Executive Director

Title:

SVP

Date: August 24, 2006

Date:

10-24-06

**ROYALTY ARRANGEMENT**

During the term of this Agreement, Bank will pay NDSUAA a Royalty calculated as follows, for those accounts with active charging privileges. Bank may create a special class of consumer accounts for NDSUAA employees under the Program, and will not pay compensation for such designated accounts. All Royalty payments due hereunder are subject to adjustment by Bank for any prior overpayment of Royalties by Bank:

**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 and which is utilized by the Customer within the first ninety (90) consecutive days of the consumer Credit Card Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.
2. \$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 Bank (other than as a result of a courtesy waiver by Bank), 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)).

**B. STUDENT CREDIT CARD ACCOUNTS**

1. \$3.00 (three dollars) for each new Student Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Student Customer within the first ninety (90) consecutive days of the Student Credit Card Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.
2. \$3.00 (three dollars) for each consumer Student Credit Card Account for which the annual fee is paid by the Student Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Student 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 Student Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.

3. 0.40% (forty basis points) of all retail purchase transaction dollar volume generated by Student Customers using a Student 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)).

C. CONSUMER GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new consumer Gold Reserve Account opened, which is utilized by the Customer for at least one transaction which is not subsequently rescinded or disputed.
2. 0.25% (twenty-five basis points) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for certain consumer 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 consumer 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. CONSUMER GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new consumer Gold Option Account opened, which is utilized by the Customer for at least one transaction which is not subsequently rescinded or disputed.
2. 0.25% (twenty-five basis points) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for certain consumer 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 consumer 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.

E. DEPOSIT ACCOUNTS

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

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

1. 0.020% (two one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.001667%) of the average MMDA Deposits.
2. 0.020% (two one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.001667%) of the average CD Deposits.

F. GIP ACCOUNTS

1. \$50.00 (fifty 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.
2. \$50.00 (fifty dollars) for each Reward GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Reward GIP Account’s opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. Such Reward GIP Accounts will not qualify for any other opening-of-an-account Royalty.
3. \$40.00 (forty dollars) for each Student GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Student Customer within the first ninety (90) consecutive days of the Student 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 Student GIP Accounts will not qualify for any other opening-of-an-account Royalty.

G. REWARD CREDIT CARD ACCOUNTS

Reward Credit Card 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 Reward Credit Card Accounts.

1. \$3.00 (three dollars) for each new Reward Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Reward Credit Card 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. This Royalty will not be paid for any Credit Card Account which, after opening, converts to a Reward Credit Card Account or for any Reward GIP Account.
2. \$3.00 (three dollars) for each Reward Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Reward Credit Card Account which: 1) has a balance greater than zero as of the last business day of the annual anniversary of the month in which the Reward Credit Card Account was opened; and 2) has had active charging privileges for each of the preceding twelve months. A Reward Credit Card Account may renew every twelve (12) months after the opening of the account.
3. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using a 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)).

#### H. ROYALTY ADVANCES

1. Upon the execution of the affinity agreement by both NDSUAA and Bank, Bank shall pay to NDSUAA the sum of seventy-five thousand dollars (\$75,000) ("Advance"); upon the first annual anniversary of the Effective Date during the initial term of this Agreement, Bank shall pay to NDSUAA the sum of seventy-five thousand dollars (\$75,000); upon the second annual anniversary of the Effective Date during the initial term of this Agreement, Bank shall pay to NDSUAA the sum of twenty-five thousand dollars (\$25,000); upon the sixth annual anniversary of the Effective Date during the initial term of this Agreement, Bank shall pay to NDSUAA the sum of thirty-five thousand dollars (\$35,000); (each, an "Advance"), as advances against future Eligible Royalties, subject to the provisions set forth below. All Eligible Royalties accrued shall, in lieu of direct payment to NDSUAA, be applied against each of the Advances until such time as all Advances are fully recouped. Any Eligible Royalties accrued thereafter shall be paid to NDSUAA as set forth in this Agreement. Notwithstanding the foregoing, (x) Bank shall no longer be obligated to pay any additional Advances to NDSUAA hereunder, and (y) NDSUAA hereby promises to pay Bank upon demand an amount equal to the difference between the total amount of the Advance(s) paid by Bank and the total amount of accrued Eligible Royalties credited by Bank against such Advance(s) as of the date of such demand, in

the event any of the conditions set forth in Clauses (i) through (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) NDSUAA breaches any of its obligations under this Agreement;

(iii) Bank is prohibited or otherwise prevented by NDSUAA, NDSUAA Affiliates, North Dakota State University or the State of North Dakota from conducting at least six (6) direct mail campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement;

(iv) Bank is prohibited or otherwise prevented by NDSUAA, NDSUAA Affiliates, North Dakota State University or the State of North Dakota from conducting at least four (4) telemarketing campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement; and

(v) Bank is prohibited by NDSUAA, NDSUAA Affiliates, North Dakota State University or the State of North Dakota 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.

2. If during any given year(s) during the initial term of this Agreement Bank recoups all prior Advances paid by it to NDSUAA in prior years, and pays NDSUAA Eligible Royalties accrued by NDSUAA over and above the Eligible Royalties used by Bank to recoup such prior Advances (the "Paid Out Royalties"), then Bank may reduce the amount of any subsequent Advance(s) due by the amount of any such Paid Out Royalties.

#### I. ROYALTY GUARANTEE

NDSUAA shall be guaranteed to accrue Eligible Royalties (including without limitation the amount of the Advances) equal to or greater than two hundred ten thousand dollars (\$210,000) (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 NDSUAA has not accrued \$210,000 in Eligible Royalties, Bank will pay NDSUAA an amount equal to the Guarantee Amount minus the sum of all compensation accrued by NDSUAA during the initial term of this Agreement and all unrecouped Advances. Notwithstanding the foregoing, this Royalty Guarantee and any obligation of Bank hereunder shall be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection H.1, above.

#### J. ACCOUNT BONUS

Bank agrees to pay NDSUAA the amounts indicated below (each, an "Bonus Payment") within forty-five (45) days following the quarter containing each anniversary of the Effective Date of the Agreement for which, during the previous twelve (12) month period prior to the applicable Effective Date anniversary, the number of Credit Card Accounts opened pursuant to the Program exceeded the annual goal ("Goal") by 20% or greater, ("Bonus Payment Goal") outlined as follows:

	Goal	Bonus Payment Goal	Bonus Payment
Year 1:	1,000	1,200	\$3,000.00
Year 2:	950	1,140	\$3,000.00
Year 3:	915	1,098	\$3,000.00
Year 4:	875	1,050	\$3,000.00
Year 5:	835	1,002	\$3,000.00
Year 6:	835	1,002	\$3,000.00
Year 7:	835	1,002	\$3,000.00

K. ACTIVATION BONUS

Over each year of the Agreement, (i.e., each twelve month period following the Effective Date with each anniversary of the Effective Date), Bank will compare the Program's number of Credit Card Accounts with a balance greater than zero as of the last processing day prior to the anniversary of the Effective Date of the Agreement ("Active Accounts") to the total number of Credit Card Accounts in the Program on the last processing day prior to the anniversary of the Effective Date of the Agreement ("Total Accounts").

If fifty percent (50%) or more of the Total Accounts are Active Accounts, Bank agrees to pay NDSUAA three thousand dollars (\$3,000.00) (each, an "Activation Bonus") within forty-five (45) days following the quarter containing each anniversary of the Effective Date.