

**SOUTHERN METHODIST UNIVERSITY  
AFFINITY AGREEMENT**

This Agreement is entered into as of this 1<sup>st</sup> day of July, 2004, (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 SOUTHERN METHODIST UNIVERSITY, a Texas non-profit educational institution having its principal place of business in Dallas, Texas ("SMU") for themselves, and their respective successors and assigns.

**1. DEFINITIONS**

When used in this Agreement,

- (a) "Agreement" means this agreement and Schedules A, B and C.
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program. An "Alumni Credit Card Account" is a Credit Card Account where the primary applicant is an Alumni Member. A "Student Credit Card Account" is a Credit Card Account where the primary applicant is a Student Member.
- (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, business card programs and entertainment card 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 and e-mail addresses of Members segmented by zip codes or reasonably selected membership characteristics.
- (f) "Member" means an undergraduate or graduate student of SMU (each a "Student Member") or an alumni of SMU or other potential participants mutually agreed to by SMU and MBNA America (each an "Alumni Member").
- (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) "SMU Lists" means individually and collectively the Mailing List(s) and the "Telephone List(s).

(j) "Telephone Lists" means updated and current lists and/or magnetic tapes (in a format designated by MBNA America) containing names, postal addresses and telephone numbers and e-mail addresses of Members segmented by zip codes or reasonably selected membership characteristics.

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

(l) "SMU Affiliate" means any entity controlling, controlled by or under common control with SMU.

(m) "Group Incentive Program " or "GIP" means any marketing or other program whereby SMU conducts solicitation efforts for the Program, and the parties mutually agree that such marketing or other program shall constitute a GIP.

(n) "GIP Account" means a Credit Card Account opened by a Member pursuant to a GIP in which SMU complies with the GIP provisions of this Agreement.

(o) "Reward Credit Card Account" means a credit card carrying the Reward Enhancement and opened pursuant to the Program.

(p) "Reward GIP Account" means a Reward Credit Card Account opened by a person pursuant to a GIP in which SMU complies with the GIP provisions of the Agreement.

## **2. RIGHTS AND RESPONSIBILITIES OF SMU**

(a) SMU agrees that during the term of this Agreement it will endorse the Program exclusively and that neither SMU nor any SMU 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 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 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, SMU may accept print advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by SMU of said financial institution or the advertised Financial Service Product.

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

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

(d) SMU shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain SMU'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 SMU. In the event such costs exceed Royalties then due SMU, SMU shall promptly reimburse MBNA America for all such costs.

(e) Upon the request of MBNA America, SMU shall provide MBNA America with SMU Lists free of any charge; provided, however, that SMU shall not include in any SMU List the name and/or related information regarding any person who has expressly requested that SMU not provide his/her personal information to third parties. In the event that MBNA America incurs a cost because of a charge assessed by SMU or its agents for an initial SMU List or an update to that list, MBNA America may deduct such costs from Royalties due SMU. SMU shall provide the initial Mailing List, containing at least Seventy-Four Thousand (74,000) non-duplicate names with corresponding postal addresses and, when available, telephone numbers and e-mail addresses of Alumni Members as soon as possible but no later than thirty (30) days after SMU's execution of this Agreement. SMU shall provide the initial Telephone List, containing at least Forty Thousand (40,000) non-duplicate names with corresponding postal addresses and telephone numbers and e-mail addresses of Alumni Members as soon as possible but no later than thirty (30) days after SMU's execution of this Agreement.

(f) SMU 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 SMU. Notwithstanding the above, SMU 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 SMU. Any correspondence received by SMU 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 twenty-four (24) hours of receipt. All charges incurred for this service will be paid by MBNA America.

(g) SMU 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. SMU 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 SMU's execution of this Agreement. Nothing stated in this Agreement prohibits SMU 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) SMU shall permit MBNA America to advertise the Program on its home page and at other prominent locations within the internet site of SMU. 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 SMU to the GIP compensation set forth on Schedule B, subject to the other terms and conditions of this Agreement. SMU 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 SMU.

(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 SMU.

(e) MBNA America shall use the SMU Lists provided pursuant to this Agreement consistent with this Agreement and shall not permit those entities handling these SMU Lists to use them for any other purpose. MBNA America shall have the sole right to designate Members on these SMU Lists to whom promotional material will not be sent. These SMU Lists are and shall remain the sole property of SMU. 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 SMU.

### **4. MUTUAL RIGHTS AND UNDERSTANDINGS**

(a) MBNA America and SMU agree to meet annually, either via telephone conference or in person, to discuss and review the following year's marketing plans for the Program.

(b) Each party understands and agrees that no trustee, officer, or employee of SMU has been or will be paid a fee, or otherwise has received or will receive any personal compensation or consideration of any kind in excess of Two Hundred Fifty Dollars \$250.00 by or from MBNA America or any of MBNA America's directors, officers, employees, or agents in connection with the negotiation of this Agreement.

## **5. REPRESENTATIONS AND WARRANTIES**

(a) SMU 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.

(vi) No member of SMU's board of directors is a director of MBNA America.

(b) SMU 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. SMU 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.

## **6. ROYALTIES**

(a) During the term of this Agreement, MBNA America shall pay Royalties to SMU. 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

(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 SMU with a statement showing the number of Credit Card Accounts opened, the number of Credit Card Accounts renewed and retail purchase dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar period.

(c) Upon the written request of SMU, but no more frequently than one (1) request in any twelve (12) month period, MBNA America shall provide SMU with system reports generated by MBNA America containing all the information which both (i) formed the basis of MBNA America's calculation of the Royalties due SMU since the last request was made or, if no previous request was made hereunder, for the last four (4) Royalty calculations performed by MBNA America, and (ii) may be disclosed by MBNA America without violating any legal rights of any third party or obligation of MBNA America. Such reports shall be certified by an officer of MBNA America as to their accuracy; provided, however, that the reports shall be certified as to their accuracy by the nationally recognized independent certified public accountants then being utilized by MBNA America, at SMU's expense, if SMU so requests such accountants' certification in its written request(s) for the generation of such reports hereunder.

## **7. PROGRAM ADJUSTMENTS**

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

## **8. CONFIDENTIALITY OF AGREEMENT**

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

**9. TERM OF AGREEMENT**

The initial term of this Agreement will begin on the Effective Date and end on June 30, 2011. This Agreement will automatically extend at the end of the initial term or any renewal term for successive one-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.

**10. STATE LAW GOVERNING AGREEMENT**

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

**11. TERMINATION**

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

(c) Upon termination of this Agreement, MBNA America shall, in a manner consistent with Section 11(d) of this Agreement, cease to use the Trademarks. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the Trademarks or to the SMU 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 SMU to the Members. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, SMU shall not attempt to cause the removal of SMU'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. or the end of the Recoupment Period (as defined below), whichever is later.

(e) Notwithstanding anything else in this Section 10, after termination of the Agreement, MBNA America may continue to reissue Credit Card Account card plastics bearing a

Trademark until such time as MBNA America has fully recouped any payments previously made to SMU which are subject to recoupment under the Agreement ("Recoupment Period").

(f) 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 VISA 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.

(g) For a one (1) year period following the termination of this Agreement for any reason, SMU agrees that neither SMU nor any SMU Affiliate shall, by itself or in conjunction with others, 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, SMU 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 SMU 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.

## **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 5(b), 8, 11(c), 11(d) and 11(g) 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 SMU:

SOUTHERN METHODIST UNIVERSITY  
5800 Ownby, Suite 305  
P.O. Box 750173  
Dallas, Texas 75275-0173

ATTENTION: Ms. Jill Stephenson  
Assistant Vice President,  
Alumni Relations

Fax #: (214) 768-4750

With a copy to:

Ann Waters Beytagh,  
Associate University Counsel  
Office of Legal Affairs  
Southern Methodist University  
P.O. Box 750132  
Dallas, Texas 75275-0132

Fax #: (214) 768-1281

(2) If to MBNA America:

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

ATTENTION: Director of National Sales

Fax #: (302) 432-2062

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 SMU 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 SMU 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.

(l) Subject to applicable law and regulation, MBNA America 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 MBNA America's judgment for the solicitation of Credit Card Account applications. SMU shall have final approval of the use and appearance of the Trademarks used on such materials, but hereby grants MBNA America the right to use such approved materials at MBNA America's discretion. In no event shall MBNA America be required to pay additional amounts to any third party (e.g., any producer, licensor(ee) or manufacturer of such gifts and premiums) as royalties otherwise due directly or indirectly to or on behalf of SMU for such gifts or premiums. SMU 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) 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 SMU's waiver by reducing the price to MBNA America for such gifts or premiums by the applicable amount, then MBNA America may deduct such applicable amount from all Royalties otherwise due under this Agreement to SMU.

### **13. 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 SMU pursuant to any GIP. In that regard, SMU 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 SMU 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 SMU 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 SMU 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 SMU pursuant to any GIP shall be deducted from any or all Royalty payments due SMU under this Agreement.

(e) SMU 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.

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

**SOUTHERN METHODIST  
UNIVERSITY**

**MBNA AMERICA BANK, N.A.**

By: <u></u>	By: <u></u>
Name: <b>R. Gerald Turner</b>	Name: <u>JAMES K. KACISINSKI</u>
Title: <b>President</b>	Title: <u>SR. EXEC. V.P.</u>
Date: <u>6/6/04</u>	Date: <u>7/16/04</u>

## 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 Alumni Credit Card Accounts, the current annual percentage rate will be a fixed rate of 11.99%.
3. For Student Credit Card Accounts, the current annual percentage rate will be a fixed rate of 14.99%.
4. Customers may be offered opportunities to purchase a variety of communication services and to select credit insurance as a benefit under the Program.

#### B. REWARD ENHANCEMENT

“Reward Enhancement” means the loyalty reward Credit Card Account enhancement as provided through MBNA America and offered as part of the Program for Reward Credit Card Accounts.

1. There is no annual fee.
2. The current annual percentage rate is a fixed rate of 12.99%
3. The Reward Enhancement may be marketed under another name (*e.g.*, Plus Rewards), as determined by MBNA America from time to time, in its sole discretion.

#### C. GOLD RESERVE ACCOUNTS

“Gold Reserve Account” means a GoldReserve® (as such service mark may be changed by MBNA America, in its sole discretion, from time to time) revolving loan account opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is an annual fee of \$20.00 after the first year, when applied.
2. The annual fee is waived for the first six (6) months.
3. The annual fee for the second six (6) months is \$10.00, when applied.

4. Customers receive a supply of blank checks from MBNA America to be drawn upon a predetermined line of credit.
5. The customer may request more checks from MBNA America on a periodic basis.

D. GOLD OPTION ACCOUNTS

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

1. There is no annual fee.
2. Customers can request that checks be drawn upon a predetermined line of credit.
3. MBNA America issues checks (for specific monetary amounts) to be sent to those third parties requested by the Customer.
4. Monthly payments may be tailored to Customers’ needs.

E. BUSINESS CREDIT CARD ACCOUNTS

“BusinessCard Credit Card Account” means a business Credit Card Account (currently referred to as a *Platinum Plus for Business* account) opened by a Member in response to marketing efforts made pursuant to the Program. MBNA America reserves the right to change the product name(s) (e.g., *Platinum Plus for Business*), in its sole discretion, from time to time.

1. There is no annual fee for each business card issued to an individual or business entity pursuant to the BusinessCard Credit Card Account program. MBNA America reserves the right to make special pricing offers for BusinessCard Credit Card Accounts to select SMU Customers and/or Members at its own discretion.

## SCHEDULE B

### ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay SMU a Royalty calculated as follows, for those accounts with active charging privileges. MBNA America may create a special class of accounts for SMU employees under the Program, and will not pay compensation for such designated accounts. 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 Alumni 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 Alumni 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 Alumni Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. \$1.00 (one dollar) for each Student Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by MBNA America (other than as a result of a courtesy waiver by MBNA America), then such royalty will be paid for each Student 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 Student Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
4. 0.50% (one half of one percent) of all retail purchase transaction dollar volume generated by Customers using an Alumni 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)).
5. 0.40% (four tenths of one percent) of all retail purchase transaction dollar volume generated by 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, money orders, bets, lottery tickets, or casino gaming chips)).

6. \$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.

B. REWARD CREDIT CARD ACCOUNTS

Reward Credit Card Accounts shall only generate the Royalty compensation set forth in this Schedule B, Section B notwithstanding any other provision of this Agreement.

1. \$1.00 (one dollar) 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 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. \$1.00 (one dollar) for each Reward 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 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% (two tenths of one percent) 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, money orders, bets, lottery tickets, or casino gaming chips)).
4. \$35.00 (thirty-five dollars) for each Reward GIP Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Reward GIP Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back

request, or otherwise disputed. Such Reward GIP Accounts will not qualify for any other opening-of-an-account Royalty.

C. GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new 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 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 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. GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$5.00 (five dollars) for each new 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 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 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. 0.05% (five one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.004167%) of the average MMDA Deposits.
2. 0.05% (five one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.004167%) of the average CD Deposits.

F. BUSINESS CREDIT CARD ACCOUNTS

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

0.20% (two tenths of one percent) of the retail purchase transaction dollar volume generated by Customers using a BusinessCard Credit Card Account with active charging privileges, excluding those transactions that (i) relate to refunds, returns and/or unauthorized transactions, and/or (ii) are cash equivalent transactions (*e.g.*, the purchase of wire transfers, money orders, bets, lottery ticket, or casino gaming chips).

G. ROYALTY ADVANCE

1. Within forty-five (45) days after each of: (i) the full execution of this Agreement; and (ii) each July 1, 2005, July 1, 2006, July 1, 2007, and July 1, 2008, MBNA America shall pay to SMU the sum of One Hundred Sixty-Five Thousand Dollars (\$165,000) (each, an "Advance") for a total advance amount of Eight Hundred Twenty-Five Thousand Dollars (\$825,000), as an advance against future Royalties, subject to the provisions set forth below. All Royalties accrued shall, in lieu of direct payment to SMU, be applied against each of the Advances until such time as all Advances are fully recouped. Any Royalties accrued thereafter shall be paid to SMU as set forth in this Agreement. Notwithstanding the foregoing, (x) MBNA America shall no longer be obligated to pay any additional Advances to SMU hereunder, and (y) SMU 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 (vi) 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) SMU breaches any of its obligations under this Agreement;

- (iii) MBNA America is prohibited or otherwise prevented from conducting at least four (4) direct mail campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement;
- (iv) MBNA America is prohibited or otherwise prevented from conducting at least two (2) telemarketing campaigns to the full updated Telephone List during each consecutive twelve month period during the term of the Agreement;
- (v) MBNA America is prohibited from conducting on-campus promotion campaigns (e.g., tabling and poster) at major events during each consecutive twelve month period during the term of the Agreement; and
- (vi) SMU enters into, endorses, sponsors or promotes any Financial Service Product with any entity other than MBNA America.

2. If during any given year(s) during the initial term of this Agreement MBNA America recoups all prior Advances paid by it to SMU in prior years, and pays SMU Royalties accrued by SMU 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.

#### H. ROYALTY GUARANTEE

SMU shall be guaranteed to accrue Royalties (including without limitation the amount of the Advance) equal to or greater than Eight Hundred Twenty-Five Thousand dollars (\$825,000) (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 SMU has not accrued \$825,000 in Royalties, MBNA America will pay SMU an amount equal to the Guarantee Amount minus the sum of all compensation accrued by SMU during the initial term of this Agreement and the amount of any unrecouped Advance. Notwithstanding the foregoing, this Royalty Guarantee and any obligation of MBNA America hereunder shall be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection G.1., above.

#### I. ACCOUNT BONUS

Provided that none of the conditions in this Schedule B, Section G.1 have occurred, if during the initial term of this Agreement, MBNA America opens at least Fifteen Thousand Five Hundred (15,500) new Credit Card Accounts, MBNA America shall pay SMU a one-time bonus of Two Hundred Thousand dollars (\$200,000), in addition to the Royalty payments set forth in Section G.1. above. Such one-time bonus, if any, will be paid by MBNA America to SMU within forty-five (45) days after the end of the initial term.

**DEPOSIT PROGRAM ADDENDUM  
TO THE SOUTHERN METHODIST UNIVERSITY  
AFFINITY AGREEMENT**

THIS ADDENDUM (the "Addendum") is entered into as of the 14 day of April, 2008, (the "Addendum Effective Date"), by and between SOUTHERN METHODIST UNIVERSITY ("SMU") and FIA CARD SERVICES, N.A., formerly known as MBNA AMERICA BANK, N.A. ("Bank"), for themselves and their respective successors and assigns.

WHEREAS, SMU and Bank are parties to that certain Affinity Agreement dated as of July 1, 2004, as the same may have been amended (the "Agreement") wherein Bank provides certain financial services to persons included in lists provided to Bank by or on behalf of SMU; and,

WHEREAS, SMU and Bank mutually desire to amend the Agreement to include consumer deposit products, money market deposit accounts, certificate of deposit accounts, checking and savings accounts, checking accounts with debit card access and money market deposit account and certificate of deposit account individual retirement accounts (described herein collectively as "Deposits" and "Deposit Accounts" and, individually, as a "Deposit Account"): (i) as a Financial Service Product; and (ii) as another part of SMU's Program under the Agreement.

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

1. The above recitals are incorporated herein and deemed a part of this Addendum. Capitalized terms not otherwise defined in this Addendum shall have the meanings assigned to them in the Agreement.
2. The parties agree that Deposits are part of the Program as the features, terms and conditions of such Deposits (sometimes referred to herein as the "Deposits Program"), and/or the Program may be adjusted or amended from time to time by Bank, in its sole discretion. Bank may, at its option, offer Deposits to some or all of the Members, including without limitation those persons included on Mailing Lists provided by SMU under the Agreement.
3. Certain Financial Service Products or services under this Agreement may be offered through Bank's affiliates. For example, deposit products are currently offered by Bank of America, N.A. The parties acknowledge that all of Bank's rights and responsibilities under the Agreement, as amended by this Addendum, relating to the Deposits apply equally to Bank of America, N.A., and its successors and assigns. Bank and/or Bank's affiliates will determine, in their discretion, the type or types of Deposits they will offer under the Program and such offerings may be adjusted or amended from time to time. Bank and/or Bank's affiliates may from time to time in their discretion add new features and terms and adjust or amend current features and terms of the Deposits and/or the Program. Deposits will be subject to Bank's or Bank's affiliate's standard deposit agreements. SMU will not possess any ownership interest in the Deposits or any accounts or access devices established pursuant to the Deposits. Bank may, in its discretion, market the Deposit Program through some or all of Bank's or Bank's affiliate's, marketing channels, including certain banking centers.

4. SMU agrees to (i) exclusively endorse Deposits; and (ii) not sponsor, promote, aid, advertise, or develop a deposit program with any organization (other than Bank) that is similar to any Deposits that are or may be offered in connection with the Program. Subject to the foregoing, all of SMU's promises arising from its exclusive arrangement with Bank in the Agreement shall also apply to Deposits.

5. SMU shall permit Bank to advertise the Deposits Program on SMU's home page and at other prominent locations within SMU's websites without additional charge. Bank may establish a hyperlink from such advertisement to Bank's website to enable a person to apply for a Deposit Account (e.g., a checking account with debit card). SMU will modify or remove such advertisements within ~~twenty-four~~ <sup>forty-eight</sup> hours of Bank's request. Pages on the SMU websites available to Bank for advertising the Deposits Program shall include, without limitation, any "members only" or other restricted access pages.

6. During the term of the Deposit Program, SMU will receive the royalties set forth below in consideration for SMU's participation in the Deposits Program. Deposit Account royalties will not be paid to SMU on any existing deposit account that is converted to the Deposit Program. However, Bank, in its sole discretion, may compensate Customers owning such converted accounts in accordance with sub-section (b) below, or otherwise.

(a) \$10.00 (ten dollars) for each new checking account opened under the Program which has a positive balance of at least \$50.00 (fifty dollars) as of the ninetieth day from the account opening date. An additional \$5.00 (five dollars) for every checking account opened under the Program that has a positive balance of at least \$50.00 (fifty dollars) on each subsequent anniversary of the account opening date. Payments will be made within forty-five (45) days after the end of each calendar quarter.

(b) 0.10 % (ten one-hundredths of one percent) of Net New Purchases (as defined below) paid within forty-five (45) days after the end of each calendar quarter. Customers will also be eligible to participate in Bank's Keep The Change™ savings program and, subject to the rules of such savings program, will receive the Bank's standard savings match under such program.

Net New Purchases equals the sum of debit card purchase transactions on checking accounts under the Deposits Program minus (i) the sum of returns, credit vouchers and other credit adjustments, (ii) cash-back or cash withdrawals, (iii) purchases resulting from quasi-cash transactions, which are transactions convertible to cash and include the purchase of money orders, travelers checks or cards, foreign currency, cashier's checks, gaming chips and other similar instruments and things of value, (iv) purchases which relate to account funding transactions, including transfers to open or fund deposit, escrow, or brokerage accounts and purchases of stored-value cards from a bank (e.g., gift cards), and (v) any account fees or charges.

7. The royalties for Deposits set forth in Section 6 of this Addendum shall not affect any other compensation contained in the Agreement, and the compensation referenced in the Agreement shall not apply to the Deposits. For the sake of clarity, Bank shall pay all royalties that accrue pursuant to Section 6 of this Addendum directly to SMU and shall not apply such royalties against any Advance(s) and/or Guarantee Amount that SMU receives or may receive under the Agreement.

8. Notwithstanding anything contained in the Agreement to the contrary, SMU acknowledges and agrees that Bank may market any financial service products or services that Bank or any Bank affiliate offers (e.g., credit cards and deposit products, collectively "Bank Products") contemporaneously with the promotion of the Deposits and that such Bank Products are not subject to this Agreement. However, Bank agrees that it shall not, when using SMU's Mailing Lists for Deposits, market Bank Products (excluding "Deposit Offers", as defined below) in direct mail copy, in an e-mail or in an outbound telemarketing solicitation, unless SMU consents to Bank's use of the Mailing Lists for such purposes. "Deposit Offers" means any and all Deposits benefits and features and any and all other products and services that relate to or have a connection with Deposits (e.g., Online Banking and \$0 Trade). Bank may maintain separately all information it obtains as a result of an account application for, and/or an account relationship in connection with, Deposits or a Bank Product. All such information becomes a part of Bank's own files and shall not be subject to the Agreement.
9. The initial term of the Deposit Program will begin on the Addendum Effective Date and will end three years thereafter ("Deposit Program Initial Term"). The Deposit Program will automatically extend at the end of the Deposit Program Initial Term for additional two-year terms ("Deposit Program Renewal Term(s)"), unless either party gives written notice of its intention not to renew at least one hundred eighty (180) days prior to the scheduled expiration of the Deposit Program Initial Term or the applicable Deposit Program Renewal Term. Notwithstanding the above, (i) in the event the Agreement is terminated for any reason whatsoever, the term of the Deposit Program shall end simultaneously therewith, and (ii) the termination rights set forth in the Agreement may also be exercised by the applicable party to terminate the Deposit Program only.
10. Upon termination or expiration of the Deposit Program, Bank shall not be required to remove, and SMU shall not take any action to cause the removal of, SMU's design, image, visual representation, identification, trademark, trade dress, service mark, logo or trade name (each, a "Mark") from the debit cards or other Deposit Account access devices, checks, statements or records of any Customer prior to (a) the expiration of said Customer's debit card or other Deposit Account access device containing such Mark; and (b) the exhaustion and clearing of such customer's check supply containing such Mark. However, upon termination or expiration of the Deposits Program, Bank shall no longer use the Marks on Deposit Account statements sent to Customers. Following termination, Bank may convert Members, in its sole discretion, to any other Bank deposit product or service without notice to SMU; provided that Bank will not imply an endorsement of such other Bank deposit product or service by SMU.
11. Except as amended by this Addendum, all of the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum.
12. For a one (1) year period following the termination of the Deposit Program for any reason, SMU agrees that neither SMU nor any SMU Affiliate shall, by itself or in conjunction with others, specifically target any offer of a deposit product or service similar to the Deposits, including without limitation, any checking account or debit card, to Members who were Customers. Notwithstanding the foregoing, SMU may, after termination of this Agreement, offer persons who were Customers the opportunity to participate in another deposit product or service similar to Deposits, endorsed by SMU provided the opportunity is not only made available to such

*JP*  
Addendum  
*(4)*

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.

13. SMU 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 SMU or Bank, respectively as the case may be, or its directors, officers or employees.

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

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

**SOUTHERN METHODIST UNIVERSITY**

By:                     S. Paddock                      
Name:                     Stacey Paddock                      
Title:                     Exec Director, Annual Grngt Alumni Relations                      
Date:                     4/14/08                    

**FIA CARD SERVICES, N.A.**

By:                     [Signature]                      
Name:                     David Booth                      
Title:                     SVP                      
Date:                     5-6-08

## SPONSORSHIP AGREEMENT

BETWEEN

SOUTHERN METHODIST UNIVERSITY

and

BANK OF AMERICA

This Agreement is made between **Southern Methodist University, a non-profit, Texas educational corporation**, by and through its **Department of Athletics (“SMU”)** and **Bank of America, a corporation located at 100 N Tryon St, Charlotte NC 28255. (“SPONSOR”)**.

**WHEREAS**, SMU desires to obtain sponsors to support its Department of Athletics; and **BANK OF AMERICA** desires to support SMU’s **Department of Athletics**.

### TERMS

1. **Term.** The term of this Marketing Agreement shall be from June 1, 2009 through May 31, 2010.
2. **Grant of Rights:**
  - **SMU Logo Usage**

Sponsor may use the SMU Mustangs and Pony Up logos on a limited, non-exclusive basis for the purposes of fulfilling its obligations under this Sponsorship Agreement; any other use of any SMU logos, marks, name, etc. by Sponsor is strictly prohibited.
  - **Website**
    - Bank of America logo on smumustangs.com website
  - **The Boulevard**
    - One (1) designated spot on “The Boulevard” for all six (6) home games
      - Chance to pass out collateral and interact with 20,000+ students/alumni/fans per game
  - **Football**
    - One (1) full-page color ad in the 2009 SMU Football Game Day Program (ad provided by Bank of America and approved by SMU);
    - One (1) PA and logo recognition in all SMU home Football games;
  - **Men’s Basketball**
    - One (1) PA and logo recognition in all SMU home Men’s Basketball games;

**3. Payment.**

In support of SMU's Department of Athletics, Sponsor agrees to pay SMU the sum of \$7,500 payable in two equal installments on October 1, 2009 and December 1, 2009.

**4. Approval by SMU and Permits.** All copy and graphics proposed for display by Sponsor are subject to prior approval by SMU, such approval not to be unreasonably withheld. Sponsor grants to SMU a non-exclusive right to use its marks, logos, name, etc. in its performance of this Agreement. Sponsor shall acquire any and all copyrights, trademarks, permits, licenses, and necessary permissions, if any, required by law to fulfill its obligations under this Agreement.

**5. Cancellation and Assignment.** This Agreement is not subject to cancellation by Sponsor. Sponsor may not assign its rights and/or obligations arising out of this Agreement to third parties without the express *prior* written consent of SMU.

**6. Loss or Damage.** SMU shall not be liable for any damage or loss to any of Sponsor's display materials.

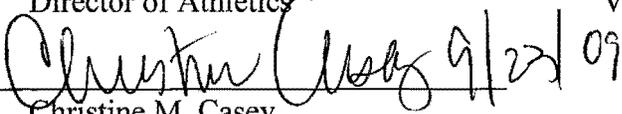
**7. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to all subject matter and supersedes all prior negotiations and understanding, whether verbal or written. No waiver, modification, or amendment of any provision of this Agreement shall be valid or effective unless in writing and signed by a duly authorized representative of both parties.

**8. Governing Law.** This Agreement shall be governed by the laws of the State of Texas and any dispute arising from it shall be resolved in a court of competent jurisdiction in Dallas County, Texas.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on this 10<sup>th</sup> day of August 2009.

SOUTHERN METHODIST UNIVERSITY

By:   
Steve Orsini  
Director of Athletics

By:  9/22/09  
Christine M. Casey  
Vice President for Business & Finance

BANK OF AMERICA

By:   
Julie Reuter  
Vice President

## FIA CARD SERVICES®

February 17, 2011

Ms. Jill Stephenson  
Assistant Vice President Alumni Relations  
Southern Methodist University  
5800 Ownby, Suite 305  
P.O. Box 750173  
Dallas, Texas 75275-0173

RE: Amendment and Extension of Agreement

Dear Ms. Stephenson:

This letter confirms our understanding that FIA Card Services, N.A., *f/k/a* MBNA America Bank, N.A. ("Bank") and Southern Methodist University ("SMU") would like to extend the current term of the Deposits Program from April 14, 2011 through June 30, 2011. The Bank's notice of intent not to renew the Deposits Program and Deposits Program Addendum, dated October 13, 2010 shall be deemed null and void upon execution of this short-term extension letter by both parties.

In consideration of the parties' mutual desire to provide time to negotiate terms related to the Deposits Program and other good and lawful consideration, the parties agree that the current term of the Deposits Program shall be extended to June 30, 2011. If an addendum or new agreement containing terms pertaining to the Deposits Program has not been negotiated and fully executed both parties on or before June 30, 2011 the Deposits Program will terminate on June 30, 2011 without any further notice required by either party ("Deposits Program Termination Date"). This paragraph replaces all provisions concerning the term of the Deposit Program, the renewal of the Deposit Program, and notices required to not renew the Deposit Program. Upon the Deposits Program Termination Date, the Deposits Program shall remain subject to Sections 11(c), 11(d), as amended below, and 12(b) of the Agreement and any other Sections in the Agreement that by its terms are meant to survive the termination of the Agreement and the rights and obligations in any other provision of the Agreement with respect to the Deposits Program shall be null and void, in each case as is the termination of the Deposits Program was termination or the Agreement for just that program.

The parties agree that the third sentence in Section 11(d) of the Agreement is hereby deleted and replaced with the following below, and for the sake of clarity, the second sentence in paragraph 10 of the Deposits Program Addendum effective April 14, 2008 is deleted in its entirety:

"Notwithstanding anything else in the Agreement to the contrary, upon termination or earlier expiration of this Agreement (or the termination or expiration of the Deposits Program only, if applicable), Bank will have up to ninety (90) calendar days from the termination or expiration date to: (i) suspend marketing and remove marketing materials from Bank's marketing channels; (ii) use Trademarks in connection with Deposit Accounts, Credit Card Accounts and BusinessCard Credit Card Accounts opened during such ninety (90) day period; and (iii) remove Trademarks from Program collateral and account materials, such as statements, welcome packages, and card carriers. SMU shall not attempt to cause the removal of Trademarks from any person's credit devices, debit devices,

## FIA CARD SERVICES®

checks or records of any Customer existing as of ninety (90) days following the termination or expiration date of this Agreement (or the termination or expiration date of the Deposits Program only, if applicable), and Bank shall have the right to use Trademarks on such credit devices, debit devices, checks and records until their normally scheduled reissue date or exhaustion.”

This letter 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. Except as amended by this letter, the terms of the Agreement shall remain in full force and effect, and with respect to any inconsistencies between this letter and the Agreement, the parties agree that the terms of this letter shall control.

Nothing contained in this letter shall be construed as implying any commitment or agreement by either party to enter into any business arrangement of any nature whatsoever with the other party, except as set forth in the Agreement.

To acknowledge your acceptance of the terms set forth above, please execute both copies of this letter where indicated below and fax one copy and return one original to me.

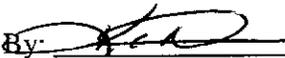
Sincerely,



Jared D. Grundish  
Vice President  
Fax: 804.553.8407

Accepted and agreed:

FIA CARD SERVICES, N.A.

By:  \_\_\_\_\_

Name: Kristian Hovenscutter

Title: SVP  
3/30/11

cc: Ann Waters Beytagh  
Associate University Counsel  
Office of Legal Affairs  
Southern Methodist University  
P.O. Box 750132  
Dallas, Texas 75275-0132

SOUTHERN METHODIST UNIVERSITY

By:  \_\_\_\_\_

Name: Stacey Paddock

Title: Executive Director,  
Alumni Giving & Relations

Stacey Paddock

SMU Executive Director, Alumni Giving & Relations



# SMU

*Office of the Vice President for Development and External Affairs*

March 31, 2011

VIA CERTIFIED MAIL  
FAX TO: (302) 432-2062

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

ATTENTION: Director of National Sales

Pursuant to Section 9 of the Agreement, I am writing to inform you that Southern Methodist University is terminating its AFFINITY AGREEMENT with Bank of America, successor to MBNA American Bank, N. A., effective June 30, 2011. The Affinity Agreement was executed by SMU's President R. Gerald Turner on June 6, 2004, by MBNA on July 16, 2004, and became effective on July 1, 2004.

Sincerely,

Brad E. Cheves

Vice President for Development  
and External Affairs

C: Basil Thomson, Associate General Counsel, Office of Legal Affairs  
Stacey Paddock, Executive Director Alumni Giving and Relations  
Jared Grundish, Bank of America