

**UNIVERSITY OF PITTSBURGH
AFFINITY AGREEMENT**

THIS AFFINITY AGREEMENT is entered into this 24th day of May, 2002, by and between MBNA AMERICA BANK, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("MBNA America"), and UNIVERSITY OF PITTSBURGH – OF THE COMMONWEALTH SYSTEM OF HIGHER EDUCATION, a Pennsylvania not-for-profit institution of higher education located in Pittsburgh, Pennsylvania (the "University of Pittsburgh").

WHEREAS, MBNA America desires to offer certain financial service products to alumni, students, faculty/staff and friends of University of Pittsburgh; and

WHEREAS, University of Pittsburgh is willing to license the use of certain proprietary intellectual property to MBNA America in connection with the Program (defined below) subject to the terms and conditions contained in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

When used in this Agreement,

- (a) "Agreement" means this affinity agreement, including all schedules attached hereto and incorporated herein by this reference.
- (b) "Charge Card" shall mean a device that accesses an open end line of credit account for which no periodic rate is used to compute a finance charge or as otherwise may be defined in the Truth in Lending Act, 15 U.S.C. § 1601 et seq., or the rules and regulations promulgated thereunder.
- (c) "Credit Card" shall mean any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit or as otherwise may be defined in the Truth in Lending Act, 15 U.S.C. § 1601 et seq., or the rules and regulations promulgated thereunder.
- (d) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program. A "Student Credit Card Account" is a Credit Card Account opened through an application coded by MBNA America as a student application. An "Alumni Credit Card Account" is a Credit Card Account opened through an application coded by MBNA America as an alumni application.

- (e) "Customer" means any Member who obtains a Program Product pursuant to this Agreement.
- (f) "Effective Date" means July 1, 2002.
- (g) "Financial Service Products" shall mean credit card programs, charge card programs, debit card programs, and travel and entertainment card programs. This definition shall not include the PittCard provided the PittCard does not include a credit feature and does not utilize any Visa, MasterCard or other national payment association (or any trademarks thereof).
- (h) "Mailing List" means an updated and current list(s), via magnetic tape, cartridge, or any other medium which is mutually agreed upon, containing names, postal addresses and, when available, telephone numbers of Members segmented by zip codes or reasonably selected membership categories.
- (i) "Marks" means any design, image, visual representation, logo, servicemark, name, trade dress, trade name or trademarks used or acquired by University of Pittsburgh during the term of this Agreement.
- (j) "MBNA Affiliate" means any entity controlling, controlled by or under common control with MBNA America.
- (k) "Member" means: (i) an undergraduate or graduate student of the University of Pittsburgh (each a "Student Member"); and (ii) alumni of the University of Pittsburgh, a member of the University of Pittsburgh's Pitt Alumni Association (the "Alumni Association"), friends, faculty and staff of the University of Pittsburgh, and/or other potential participants mutually agreed to by University of Pittsburgh and MBNA America (each an "Alumni Member").
- (l) "Other University Programs" means the financial products, services and programs offered by an organization other than MBNA as set forth in Schedule A, Section II.
- (m) "PittCard" is the University of Pittsburgh's identification card program, some of the current features which are described on Schedule A, Section I, which is provided by University of Pittsburgh solely to students, faculty, staff of the University of Pittsburgh and which currently includes a stored-value feature and a pre-payment feature (such features currently known "PittFunds").
- (n) "Program" means those programs and services relating to the Program Products.
- (o) "Program Products" means those certain Financial Services Products and Secondary Financial Service Products set forth in Schedule B, and additional Financial Service Products and/or Secondary Financial Service Products mutually

agreed upon, that MBNA America agrees to offer pursuant to this Agreement to the Members from time to time.

- (p) "Royalties" means the compensation set forth in Schedule C.
- (q) "Secondary Financial Service Products" shall installment loan programs, revolving loan programs, and deposit programs.
- (r) "University of Pittsburgh Affiliate" means any entity controlling, controlled by or under common control with the University of Pittsburgh.

2. LICENSE TO USE MARKS AND MAILING LIST

- (a) During the term of this Agreement, University of Pittsburgh hereby grants to MBNA America and any MBNA Affiliate a limited, exclusive license to use the Marks depicted on **Schedule D** solely in conjunction with the Program, including the promotion thereof, in accordance with the terms of this Agreement. Such right and license to use the Marks shall not apply or extend to any other product or service offered by MBNA America. **Schedule D** shall be deemed automatically amended without further action of the parties to include any additional Marks which University of Pittsburgh approves for use by MBNA America in connection with the Program, and any intellectual property developed as a successor or replacement of, or as a modification to, any Marks. 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 Marks, notwithstanding the transfer of the ownership of such Marks by operation of law or otherwise to any permitted successor, corporation, organization or individual. University of Pittsburgh shall provide MBNA America all production materials pertaining to Marks requested by MBNA America (e.g., camera ready art), as soon as possible but no later than thirty (30) days after any such request by MBNA America. In the event of any change in its Marks, University of Pittsburgh shall not bear any additional expenses incurred by MBNA America in connection with the use of the modified Marks provided (i) University of Pittsburgh gives at least ninety (90) days written notice of an impending change; (ii) MBNA America shall not be required to replace existing credit cards before the normal expiration date thereof; and (iii) MBNA America may continue to use any existing inventory of marketing, solicitation or promotional materials for the Program.
- (b) Subject to the foregoing, University of Pittsburgh is and shall remain the owner of all rights in and to its Marks, as the same now exist or as they may hereafter be modified. Except as otherwise provided in this Agreement, upon the termination of this Agreement, all rights conveyed by University of Pittsburgh to MBNA America with respect to the use of the Marks shall cease, and all such rights shall revert to University of Pittsburgh.

- (c) During the term of this Agreement, University of Pittsburgh grants to MBNA America a limited, exclusive license to use the Mailing List solely in conjunction with the Program, including the promotion thereof, in accordance with the terms of this Agreement. Such right and license to use the Mailing List shall not apply or extend to any other product or service offered by MBNA America. 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 Mailing List, notwithstanding the transfer of ownership of the Mailing List by operation of law or otherwise to any permitted successor, corporation, organization or individual.
- (d) Subject to the foregoing, University of Pittsburgh is and shall remain the owner of all rights in and to the Mailing List, as the same now exists or as it may hereafter be modified. Except as otherwise provided for in this Agreement, upon the termination of this Agreement, all rights conveyed by University of Pittsburgh to MBNA America with respect to the use of the Mailing List shall cease, and all such rights shall revert to University of Pittsburgh; however, MBNA America may conclude all solicitation that is required by law.

3. THE PROGRAM

- (a) MBNA America shall design, develop and administer the Program for the Members.
- (b) MBNA America shall design all advertising, solicitation, promotional and other related materials concerning the Program. University of Pittsburgh shall have the right of prior approval of all Program advertising, solicitation and promotional materials, printed or otherwise which contain a Mark or University of Pittsburgh's name, including the Mark to be used on any credit card to be issued by MBNA America in conjunction with the Program; such approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, MBNA America shall have the right to communicate information to any Customer which it normally sends to its other cardholders without having to obtain the prior approval of the University of Pittsburgh. Except as otherwise permitted pursuant to this Agreement, neither party shall use the name of the other party in any advertising or promotional materials without the written consent of such other party.
- (c) MBNA America shall bear all costs of producing and mailing materials for the Program.
- (d) MBNA America shall make all credit decisions and bear all credit risks with respect to each Customer's account(s). University of Pittsburgh shall not possess any ownership interest in the Program, the Program Products or any Credit Card Account established by a Customer pursuant to this Agreement. University of Pittsburgh shall not be responsible for any outstanding balances or other charges owed to MBNA America by any of the Members, except for charges which

pertain to a Customer's dispute with a transaction with the University of Pittsburgh.

- (e) MBNA America shall use any Mailing List and Marks provided pursuant to this Agreement consistent with this Agreement and shall not permit those entities handling any Mailing List or Marks to use them for any other purpose. MBNA America shall have the sole right to designate Members on any Mailing List to whom promotional material will not be sent. Each Mailing List and the Marks are and shall remain the sole property of University of Pittsburgh. However, MBNA America may maintain separately all information which it obtains as a result of an account relationship or an application for an account relationship. This information becomes a part of MBNA America's own files and shall not be subject to this Agreement; provided, however, that MBNA America will not use this separate information in a manner that would imply an endorsement by University of Pittsburgh.

- (f) In conjunction with MBNA America's marketing of the Program to Student Members, MBNA America (through its subsidiary MBNA Marketing Systems, Inc., any other MBNA Affiliate or a third party designated by MBNA America) will provide information and education on the proper use of credit. Within a commercially reasonable period of time of the opening of a Student Credit Card Account, MBNA America shall send to each such Student Credit Card Account information on the proper use of credit (currently the *Good Credit*, *Great Future* and *Importance of Maintaining Solid Credit* brochures). MBNA America will make available at all promotional display tables where the Program is marketed to Student Members information on the proper use of credit. MBNA America shall also provide credit education and money-management seminars at University of Pittsburgh. MBNA America and University of Pittsburgh shall mutually agree to the scheduling of such seminars; however, such seminars shall be offered at least once each term (fall and spring) during the term of this Agreement. MBNA America shall be responsible for the cost of producing and providing the educational materials. The University shall not be responsible for the costs incurred by MBNA America, MBNA Marketing Systems, Inc., any other MBNA Affiliate or any third party designated by MBNA in connection with this paragraph. University of Pittsburgh shall be responsible for the costs, if any, relating to University employees or the forum in which such seminars are conducted.

- (g) MBNA America agrees that it will substantially comply in all material respects with federal law and the laws of the State of Delaware relating to the matters which are the subject of this Agreement, except in the case where the failure to so comply would not individually or on the aggregate, have a Material Adverse Effect. A "Material Adverse Effect" means any event or condition that has or is reasonably likely to have a materially adverse effect on the Program.

- (h) MBNA America agrees that it will maintain accurate records relating to accounts established pursuant to the terms of this Agreement. MBNA America shall keep such records in accordance with MBNA America's record retention policies and the requirements of applicable law.
- (i) In the event that MBNA America sends the Mailing List to National Change of Address Service ("NCOA"), after MBNA America receives the Mailing List back from NCOA it agrees, but no more than twice per year, to give University of Pittsburgh a copy of such updated Mailing List via magnetic tape, cartridge, or any other medium which is mutually agreed upon. Every year during the term of this Agreement, MBNA America shall, at its own expense, perform a database search for lost addresses and telephone numbers of the Members, and MBNA America agrees to give University of Pittsburgh a copy of such updated Mailing List via magnetic tape, cartridge, or any other medium which is mutually agreed upon.
- (j) MBNA America acknowledges that the University of Pittsburgh is subject to certain legal requirements (the "Requirements"), which Requirements are summarized in **Schedule E**. MBNA America agrees to abide by the terms of the Requirements as set forth in **Schedule E**.
- (k) University of Pittsburgh agrees to provide MBNA America with such information as may be reasonably requested by MBNA America as is necessary or incidental to the offering of the Program.
- (l) University of Pittsburgh shall not and shall prevent any University of Pittsburgh Affiliate from, providing information to, or communicating with Members or potential Members about the Program and shall instruct all such Members or potential Members to contact MBNA America directly. Any correspondence received by University of Pittsburgh that is intended for MBNA America (e.g., applications, payments, billing inquiries, etc.) shall be forwarded to the MBNA America account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by MBNA America.
- (m) University of Pittsburgh agrees that during the term of this Agreement that it will endorse the Program (other than the Secondary Financial Service Products) exclusively, and that neither University of Pittsburgh nor any University of Pittsburgh Affiliate shall, by itself or in conjunction with others, directly or indirectly: (i) sponsor, advertise, aid, or market any Financial Service Products of any organization other than MBNA America; (ii) license or allow others to license the Marks in relation to or for promoting any Financial Service Products of any entity other than MBNA America; and (iii) license, sell, or otherwise make available or allow others to license, sell or otherwise make available the Mailing List for promoting any Financial Service Products of any entity other than MBNA America. The foregoing shall not apply to (x) Other University Programs as the same are currently structured and delineated; and (y) advertising related to

Financial Service Products provided such advertisements do not contain an express or implied endorsement by University of Pittsburgh and do not utilize or bear a Mark.

- (n) University of Pittsburgh shall provide MBNA America with the Mailing List as requested by MBNA America, as soon as possible but no later than thirty (30) days after any such request by MBNA America; however, University of Pittsburgh shall not be required to provide MBNA America with the Mailing List more than four (4) times in any consecutive twelve (12) month period. University of Pittsburgh shall not include in any Mailing List: (i) the name and/or related information regarding any person who has expressly requested that University of Pittsburgh not provide his/her personal information to any third party; (or) identify which of its Members has or had a credit card issued by First USA Bank. The University of Pittsburgh shall provide an initial Mailing List, containing at least two hundred thirty-seven thousand (237,000) non-duplicate Alumni Members and at least twenty-three thousand (23,000) non-duplicate Student Members on the Effective Date.
- (o) University of Pittsburgh authorizes MBNA America to solicit its Alumni Members by mail, direct promotion, advertisements and/or telephone for participation in the Program. University of Pittsburgh authorizes MBNA America to solicit its Student Members by mail, direct promotion, and/or advertisements for participation in the Program.
 - (i) Direct Mail Marketing:
 - (1) Alumni Members: MBNA America may conduct no more than five (5) direct mail campaigns to the Alumni Members listed on the full updated Mailing List during each consecutive twelve (12) month period during the term of the Agreement.
 - (2) Student Members: MBNA America may conduct no more than three (3) direct mail campaigns to the Student Members listed on the full updated Mailing List during each consecutive twelve (12) month period during the term of the Agreement.
 - (ii) Telemarketing: MBNA America may conduct no more than two (2) telemarketing campaigns to the Alumni Members listed on the full updated Mailing List during each consecutive twelve (12) month period during the term of the Agreement. MBNA America agrees that it shall not solicit a Member for the Program by telephone unless MBNA America solicited such Member for the Program by mail within twenty four (24) months prior to the solicitation by telephone.
- (p) University of Pittsburgh shall provide to MBNA America the sponsorship and marketing opportunities listed on **Schedule F**, attached hereto and incorporated

herein by reference, at no cost to MBNA America during each consecutive twelve month period during the term of this Agreement (each an "Annual Marketing Plan"). The parties agree that each obligation to provide each item of each Annual Marketing Plan is a material obligation of University of Pittsburgh to MBNA America.

- (q) University of Pittsburgh agrees that it shall substantially comply in all material respects with federal law and the laws of the Commonwealth of Pennsylvania relative to its business activities, except in the case where the failure to so comply would not individually or in the aggregate have a Material Adverse Effect.

4. REPRESENTATIONS AND WARRANTIES

- (a) University of Pittsburgh 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 powers and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
 - (iii) This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.
 - (iv) No consent, approval or authorization from any third party is required in connection with the execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.
 - (v) The execution, delivery and performance of this Agreement by such party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such party.
- (b) University of Pittsburgh represents and warrants to MBNA America as of the Effective Date and throughout the term of this Agreement that:
 - (i) it has the right and power to license the Marks and the Mailing List to MBNA America for use as contemplated by this Agreement.
 - (ii) the execution and delivery of this Agreement by University of Pittsburgh will not constitute a breach of any other agreement.

5. INDEMNIFICATION

- (a) MBNA America will hold the University of Pittsburgh, its trustees, directors, officers, agents, employees, affiliates, successors and assigns ("University Indemnitees") harmless from and against any and all liabilities, damages, injuries, losses, costs or expenses including, but not limited to, reasonable attorneys' fees or costs ("Losses") arising from any claim, demand, judgment, citation, proceeding, investigation, lawsuit, settlement or any other cause of action initiated by any third party (a "Third Party Claim") in which the University of Pittsburgh is included as a defendant relating in any way to (i) the Program or the Program Products, (ii) MBNA America's performance under this Agreement (whether performed by MBNA America's employees or independent contractors or those for whom MBNA America may be legally responsible in connection with such services), (iii) any breach by MBNA America of any of the provisions of this Agreement, or (iv) any violation of any law, regulation, policy or order by MBNA America or its directors, officers, agents, employees, affiliates, successors and assigns.
- (b) University of Pittsburgh will hold MBNA America, its directors, officers, agents, employees, affiliates, successors and assigns ("MBNA Indemnitees") harmless from and against any and all Losses arising from a Third Party Claim in which MBNA America is included as a defendant relating in any way to (i) the licenses of the Marks or Mailing List granted herein or from MBNA America's use of the Marks or Mailing List in reliance thereon for the promotion of the Program; (ii) University of Pittsburgh's performance under this Agreement, (iii) any breach by University of Pittsburgh of any of the provisions of this Agreement, or (iv) any violation of any law, regulation, policy or order by the University of Pittsburgh or its trustees, directors, officers, agents, employees, affiliates, successors and assigns.
- (c) 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 pursuant to this Section 5. An indemnified party under this Section 5 shall, within ten (10) business days of receiving notice of any Third Party Claim which may be subject to the indemnification provided herein, notify the indemnifying party in writing (in the manner provided for in this Agreement) of the Third Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the indemnifying party actually shall have been prejudiced as a result of such failure (except that the indemnifying party shall not be liable for any expenses incurred during the period in which the indemnified party failed to give such notice).
- (d) If a Third Party Claim is made against an indemnified party, the indemnifying party will be entitled to participate in the defense thereof and, if the indemnifying party chooses, to assume the defense thereof of that portion of the claim for which

there is an obligation of indemnity, at its own cost and expense with counsel selected by the indemnifying party and reasonably satisfactory to the indemnified party. Should the indemnifying party elect to assume the defense of a Third Party Claim, the indemnifying party will not be liable to the indemnified party for any legal expenses subsequently incurred by the indemnified party in connection with the defense thereof unless the indemnified party shall have reasonably determined that there may be one or more defenses which are available to it which are different from or in addition to those available to the indemnifying party. If the indemnifying party assumes such defense, the indemnified party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the indemnifying party. The indemnifying party shall be liable for the fees and expenses of counsel employed by the indemnified party for any period during which the indemnifying party has not assumed the defense thereof (other than during any period in which the indemnified party shall have failed to give notice of the Third Party Claim as provided above). If the indemnifying party chooses to defend or prosecute a Third Party Claim, all of the parties hereto shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the indemnifying party's request) the provision to the indemnifying party of records and information which are reasonably relevant to such Third Party Claim, and making employees, consultants and independent contractors available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder and to provide testimony. If the indemnifying party chooses to defend or prosecute any Third Party Claim, the indemnifying party shall not agree to any settlement, compromise or discharge of such Third Party Claim without the prior written consent of the indemnified party, unless such settlement, compromise or discharge provides solely for monetary relief and the full and complete release of the indemnified party is the result thereof. Whether or not the indemnifying party shall have assumed the defense of a Third Party Claim, the indemnified party shall not admit any liability with respect to, or settle, compromise or discharge, such Third Party Claim without the indemnifying party's prior written consent. If the indemnifying party does not elect to control or defend a Third Party Claim, or after so electing does not actively contest and defend the same in good faith, the indemnified party shall be entitled to contest, defend and/or settle such Third Party Claim on such terms and with such counsel as the indemnified party deems appropriate, and at the cost and expense of the indemnifying party.

- (e) The indemnities extended by this Section 5 shall be full and complete indemnities to the extent permitted by law, including but not limited to expenses incurred in enforcing the terms of this indemnity.

6. ROYALTIES

- (a) During the term of this Agreement, MBNA America shall pay Royalties to University of Pittsburgh in consideration for licenses granted pursuant to Section

2 of this Agreement relating to the Marks and Mailing List. The Royalties due and owing to University of Pittsburgh shall be calculated as set forth in **Schedule C**. Royalties will not be paid without a completed **Schedule G** (IRS Form W-9 - Request for Taxpayer Identification Number). Unless otherwise specified in **Schedule C**, Royalties shall be paid approximately forty-five (45) days after the end of each calendar quarter in immediately available funds and wired to University of Pittsburgh account listed below or to such other account as University of Pittsburgh may from time to time designate in writing. In the event that the date on which the Royalties are to be paid would be on a day other than a business day, such payment shall be made on the next succeeding business day. All amounts which are not paid when due shall bear interest until paid in full at the maximum interest rate permitted by law.

Mellon Bank, N.A.
Pittsburgh, PA
ABA #043 000 261
Credit Account Name: University of Pittsburgh
Credit Account #: 001-5510
REF: MBNA Affinity Payment

- (b) On or before the forty-fifth (45th) day after the end of each calendar quarter during the term of this Agreement, MBNA America will provide University of Pittsburgh with a statement showing Royalties earned on the Program Products offered in connection with the Program, including the number of Credit Card Accounts opened, the number of Credit Card Accounts renewed and the retail purchase dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar period.
- (c) Upon the written request of University of Pittsburgh, but no more frequently than one (1) request in any twelve (12) month period, MBNA America shall provide University of Pittsburgh 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 University of Pittsburgh 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 the University of Pittsburgh expense, if the University of Pittsburgh so request such accountants' certification in its written request(s) for the generation of such reports hereunder. MBNA America will reimburse the University of Pittsburgh for the expense of obtaining the accountant's certification in the event that MBNA America has paid the University of Pittsburgh less than ninety five percent (95%) of what the

accountant's findings determine MBNA America should have paid the University of Pittsburgh during the period reviewed by the accountant.

7. **PROGRAM ADJUSTMENTS**

A summary of the current features of the Program Products included in the Program are set forth in **Schedule B**. Except as otherwise agreed to herein, MBNA America reserves the right to make periodic adjustments to the Program and its terms and features and related services in connection with the Program. Notwithstanding MBNA America's right to make periodic adjustments to the Program and its terms and features, MBNA America agrees to use commercially reasonable efforts to offer the same or similar non-promotional annual percentage rate in soliciting Members for new credit card accounts that is offered on the new credit card account solicitations of the other endorsed university credit card programs of similar size, demographics, compensation, performance (e.g., delinquency and marketing response rates), characteristics, and loyalty enhancement programs (e.g., travel rewards and merchandise rewards) as University of Pittsburgh that are in the same business development sector of MBNA America as the Program. Notwithstanding the above, if University of Pittsburgh inquires, in writing, about MBNA America's compliance with this Section 7, University of Pittsburgh agrees that it shall not have the right, under any circumstances whatsoever, to receive any specific information about any other MBNA America card program except to the extent publicly available.

8. **CONFIDENTIALITY**

- (a) 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 ("Confidential Information") are confidential as of the date of disclosure. Such Confidential 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.
- (b) A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information.
- (c) In addition, this Section 8 will not be construed to prohibit disclosure of Confidential Information by MBNA America and University of Pittsburgh (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 Confidential Information as confidential in the above

described manner or (ii) as required by law or by any governmental regulatory authority. If either party is required by law to disclose any Confidential Information of the other, such party will provide the other party with prompt notice of such requirement so that the other party may seek a protective order or take other appropriate action; provided, however, no notice is required for requests to review the Agreement made by governmental authorities that have the right to review and examine MBNA America or the University of Pittsburgh, whichever the case may be.

- (d) If any of Confidential Information is disclosed by a party or persons who gained access to such Confidential Information through such a party, such party will (i) notify the other party in writing of the unauthorized misrepresentation, disclosure or use and (ii) take all steps, at its own expense, reasonably necessary to enforce and to protect the other party from additional disclosure and to remedy such misrepresentation, disclosure or use.
- (e) Each party hereto acknowledges that any breach by it of its obligations under this Section 8 would inevitably cause substantial and irreparable damage to the other party, and that money damages would be an inadequate remedy therefor. Accordingly, the parties acknowledge and agree that each party will be entitled, in addition to any other available remedies, to an injunction, specific performance, and/or other equitable relief to prevent the violation of any such obligations.

9. TERM OF AGREEMENT

Subject to the provisions of Section 11 below, the term of this Agreement will begin on the Effective Date and end at 5:00 p.m. Eastern Time on June 30, 2012 (the "Expiration Date"). 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 formed in Delaware.

11. TERMINATION

- (a) This Agreement may be terminated by either party prior to the Expiration Date as set forth in subsections (i) and (ii) below and by MBNA America as set forth in subsection (iii) below:
 - (i) In the event of any material breach of this Agreement by MBNA America or the University of Pittsburgh, the other party may provide written notice,

as provided herein, to the breaching party ("Notice of Breach"). The Notice of Breach shall describe the material breach. If the breaching party does not cure or substantially cure such breach within sixty (60) days after receipt of such notice (the "Cure Period"), then the other party may within sixty (60) days after the Cure Period provide written notice, as provided herein to the breaching party (the "Termination Notice") that this Agreement shall terminate sixty (60) days after the Termination Notice.

- (ii) If either party becomes insolvent in that its liabilities exceed its assets, or is adjudicated insolvent, or a party 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.
 - (iii) 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 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 with advance written notice as set forth below. Such written notice shall include a detailed explanation and evidence of the burden imposed as a result of such change (the "Notice of Evidence"). If MBNA America exercises its right to terminate this Agreement pursuant to this paragraph, the parties agree to work together, in good faith, for up to ninety (90) days after University's receipt of the Notice of Evidence to negotiate mutually agreeable changes to this Agreement that will cure the conditions described above. If the parties are unable to reach agreement, then MBNA America may terminate this Agreement, with such termination to be effective one hundred twenty (120) days from the Notice of Evidence or sooner if otherwise required by law.
- (b) Upon termination of this Agreement for any reason, including but not limited to, pursuant to paragraph (a) above, the parties agree to the following:
- (i) MBNA America shall, except as otherwise provided for below, cease to use the Marks and the Mailing List. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the Marks or to any Mailing List provided pursuant to this Agreement. However, MBNA America may conclude all solicitation that is required by law. Upon termination of this Agreement, University of Pittsburgh shall not attempt to cause the removal of the University of Pittsburgh's identification or Marks from any person's credit devices, checks or records of any Customer existing as of the effective date of termination of this Agreement.

- (ii) The parties shall jointly develop and approve a single, joint notice to be communicated in writing to all Customers. Approval of such joint notice shall not be unreasonably withheld by either party. The notice shall be factually accurate and shall not contain any statement concerning either party or the Program which either party considers to be disparaging of itself or the Program. All direct expenses incurred in producing and distributing such notice shall be equally shared by the parties.

- (iii) For a one (1) year period following the termination of this Agreement for any reason, University of Pittsburgh agrees that neither University of Pittsburgh nor any University of Pittsburgh Affiliate shall, by itself or in conjunction with others, directly or indirectly, specifically target any offer of a Credit Card or a Charge Card to persons who were Customers. Notwithstanding the foregoing, University of Pittsburgh may, after termination of this Agreement, offer persons who were Customers the opportunity to participate in another Credit Card or Charge Card program endorsed by University of Pittsburgh 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. STATEMENT INSERTS/MESSAGES

- (a) Subject to MBNA America's approval rights set forth below, space availability, any legally required inserts, changes to the terms of the credit card agreements, changes to or termination of cardholder benefits, any contractual constraints, association required inserts or cardholder exclusion requests, University of Pittsburgh shall have the opportunity to periodically include informational inserts or statement messages about the University of Pittsburgh in Customer statements, selected by MBNA America in its sole discretion, who are in good standing (the "University Promotion").

- (b) The content of the University Promotion and its size, length and weight must be previously approved in writing by MBNA America. To take advantage of any such opportunities, University of Pittsburgh must inform MBNA America in writing and must develop, produce and deliver the University Promotion, at its cost, to MBNA America within forty five (45) days prior to the month of the scheduled mailing date of the billing statement to enable MBNA America to review and approve the University Promotion and to place it on or in the Customer's monthly billing statement. Increased postal expenses incurred by MBNA America due solely to inserting such statement inserts, shall be the responsibility of University of Pittsburgh.

13. MISCELLANEOUS

- (a) This Agreement cannot be amended except by written agreement signed by the authorized agents of both parties hereto.
- (b) The obligations of Sections 5, 8, and 11(b) shall survive any termination of this Agreement.
- (c) Except as otherwise provided in this Agreement, the failure of any party to exercise any rights under this Agreement shall not be deemed a waiver of such right or any other rights.
- (d) The section captions are inserted only for convenience and are in no way to be construed as part of this Agreement.
- (e) If any part of this Agreement shall for any reason be found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Agreement which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.
- (f) All notices relating to this Agreement shall be in writing and shall be deemed given (i) upon receipt by hand delivery, facsimile or overnight courier, or (ii) three (3) business days after mailing by registered or certified mail, postage prepaid, return receipt requested. All notices shall be addressed as follows:

- (1) If to University of Pittsburgh:

UNIVERSITY OF PITTSBURGH
Pitt Alumni Association
4227 5th Avenue
Pittsburgh, PA 15260
ATTENTION: Leland D. Patouillet, Ph.D.
Fax #: 412-624-4141

with a copy to:

UNIVERSITY OF PITTSBURGH
Office of General Counsel
1710 Cathedral of Learning
Pittsburgh, PA 15260
ATTENTION: General Counsel
Fax #: 412-624-9165

- (2) If to MBNA America:

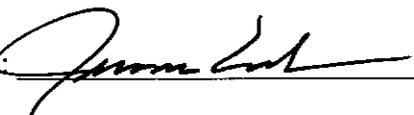
MBNA AMERICA BANK, N.A.
Rodney Square
Wilmington, DE 19884
ATTENTION: Mr. William P. Morrison
Senior Executive Vice President
Fax #: 302-432-0805

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

- (g) This Agreement contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior promises and agreements, written or oral, with respect to the matters covered herein. MBNA America may utilize the services of any third party in fulfilling its obligations under this Agreement. Certain Program Products or services under this Agreement may be offered through an MBNA Affiliate. For example, business credit cards are currently issued and administered by MBNA America (Delaware), N.A., and certain marketing services are currently provided by MBNA Marketing Systems, Inc. MBNA America shall (i) ensure that the terms and conditions of this Agreement are adhered to by all persons fulfilling MBNA America's obligations under this Agreement, (ii) not be relieved of any of its legal obligations under this Agreement, and (iii) be responsible for any breach of this Agreement by any party utilized by MBNA America with respect to this Agreement.
- (h) Nothing in this Agreement is intended to or shall be construed to constitute or establish an agency, joint venture, partnership or fiduciary relationship between the parties, and neither party shall have the right or authority to act for or on behalf of the other party.
- (i) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than University of Pittsburgh and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Agreement.
- (j) Neither party shall be in breach hereunder by reason of its delay in the performance of or failure to perform any of its obligations herein if such delay or failure is caused by strikes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or any event beyond its reasonable control or without its fault or negligence.
- (k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties, by its representative, has executed this Agreement as of the date first set forth above.

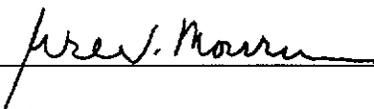
**UNIVERSITY OF PITTSBURGH – OF THE
COMMONWEALTH SYSTEM OF HIGHER EDUCATION**

By:  _____

Name: Jerome Cochran

Title: Executive Vice Chancellor

MBNA AMERICA BANK, N.A.

By:  _____

Name: William P. Morrison

Title: Senior Executive Vice President

SCHEDULE A

I. PITTCARD

The University of Pittsburgh provides an official identification card (currently referred to as the PittCard) to its faculty, staff and students. The identification card provides access to campus buildings, events, services (food, copiers, etc.), campus buses and shuttles, the PAT Bus in Allegheny County, PittFunds and, in certain instances, automated teller machines ("ATMs") and MAC point of sale through a linked bank account (see PNC Bank Agreement below). PittFunds is a "stored value" or "pre-payment" feature available to students, faculty and staff. Funds may be applied to the identification card via cash, check, or credit card (currently processed through the University of Pittsburgh), and the identification card can be used to make purchases both on and off campus.

II. OTHER UNIVERISTY PROGRAMS

1. *PNC Bank Agreement.* The University of Pittsburgh has a Banking Service Agreement with PNC Bank pursuant to which PNC Bank has the right to provide various financial services to students, faculty and staff of the University of Pittsburgh. Such programs include, but are not limited to, personal savings and/or checking accounts with bank debit cards and ATM and MAC point of sale access through the University of Pittsburgh identification card. The agreement specifically excludes the right to provide credit card programs, charge card programs, and travel and entertainment credit card or charge card programs. PNC Bank has been granted rights to utilize Marks and Mailing Lists (students, faculty/staff) in connection with its program; however, University of Pittsburgh shall not permit PNC to use the same Marks on the PNC bank debit cards that are used for the Program. The University of Pittsburgh has also granted certain rights with respect to signage and other advertisements.

2. *Athletics Sponsorship.* The University of Pittsburgh has previously entered into sponsorship agreements and is currently negotiating sponsorship arrangements for the University of Pittsburgh's athletic department. Such sponsorship arrangements have previously included financial institution and it is anticipated that future sponsorship arrangements may include financial institutions. The sponsors are generally entitled to sponsorship recognition as a supporter of the University of Pittsburgh's athletic department. Under the terms of such sponsorship arrangements, the University of Pittsburgh grants certain limited rights to use the Marks, the Mailing List, signage, advertisements and promotional materials; however, such right does not and shall not include the right to use the Marks or the Mailing Lists to offer Financial Service Products or advertise Financial Service Products.

SCHEDULE B

PROGRAM PRODUCTS - TERMS AND FEATURES

Subject to (i) MBNA America's right to vary the Program and its terms and features as set forth in the Agreement, and (ii) the applicable agreement entered into between MBNA 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 12.99%.
3. For Student Credit Card Accounts, the current annual percentage rate will be a fixed rate of 15.99%.
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. GOLD RESERVE ACCOUNTS

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

1. There is NO annual fee for the first six months.
2. The annual fee for the second six (6) months, when applied, is \$10.00.
3. Thereafter the annual fee, when applied, is \$20.00.
4. The current annual percentage rate is 17.90%.

C. GOLD OPTION ACCOUNTS

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

1. There is NO annual fee.
2. The current annual percentage rate is as low as 12.99%.

D. BUSINESSCARD 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 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 Account program.
2. The current Annual Percentage Rate for BusinessCard Credit Card Accounts is a fixed rate of 14.99%.

E. OTHER PROGRAM FEATURES

The following are additional benefits to be provided to Customers by MasterCard International, VISA USA, or MBNA with their Credit Card Accounts and which are subject to certain restrictions:

- 24 hour customer service
- Telephone credit line request answered in thirty (30) minutes or less
- Emergency cash
- Emergency card replacement
- Common carrier travel accident insurance
- Supplemental lost checked luggage protection
- Automatic year-end account summary of charges for active Platinum Plus Customers

SCHEDULE C

ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay University of Pittsburgh a Royalty calculated as follows, for those accounts with active charging privileges. MBNA America may, with the written consent of University of Pittsburgh, create a special class of accounts for certain University of Pittsburgh 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)).

B. GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Reserve Account opened, which remains open for at least ninety (90) consecutive days.
2. 0.25% (twenty-five one-hundredths of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for each Gold Reserve Account. This Royalty will be paid within sixty (60) days of the calendar year end.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that a Customer pays the annual fee on a Gold Reserve Account.

C. GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Option Account opened, which remains open for at least ninety (90) consecutive days.
2. 0.25% (twenty-five one-hundredths of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for each Gold Option Account. This Royalty will be paid within sixty (60) days of the calendar year end.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that each Gold Option Account remains open.

D. BUSINESSCARD CREDIT CARD ACCOUNTS

BusinessCard Credit Card Account compensation provisions shall not affect any other compensation provision contained in this Agreement, and the compensation provisions referencing any other form of Credit Card Accounts shall not apply to BusinessCard Credit Card Accounts; provided, however, that BusinessCard Credit Card Account Royalties accrued hereunder shall be treated as Royalties for purposes of **Schedule C**, hereof.

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 tickets, or casino gaming chips).

E. ROYALTY ADVANCES

1. Within forty-five (45) days of the Payment Date listed below, MBNA America shall pay to the University of Pittsburgh the following amounts:

<u>Advance Period</u>	<u>Payment Date</u>	<u>Dollar Amount</u>
07/01/2002 to 06/30/2003	July 1, 2002	\$2,000,000.00
07/01/2003 to 06/30/2004	July 1, 2003	\$ 722,222.00
07/01/2004 to 06/30/2005	July 1, 2004	\$ 722,222.00
07/01/2005 to 06/30/2006	July 1, 2005	\$ 722,222.00
07/01/2006 to 06/30/2007	July 1, 2006	\$ 722,222.00
07/01/2007 to 06/30/2008	July 1, 2007	\$ 722,222.00
07/01/2008 to 06/30/2009	July 1, 2008	\$ 722,222.00
07/01/2009 to 06/30/2010	July 1, 2009	\$ 722,222.00
07/01/2010 to 06/30/2011	July 1, 2010	\$ 722,222.00
07/01/2011 to 06/30/2012	July 1, 2011	\$ 722,224.00

(each, an "Advance"), as an advance against future earned Royalties, subject to the provisions set forth in Section E.2., below. All Royalties accrued shall, in lieu of direct payment to University of Pittsburgh, be applied against each of the prior Advances until such time as all prior Advances are fully recouped. Any Royalties accrued thereafter shall be paid to University of Pittsburgh as set forth in the Agreement.

2. (a) The following provisions are in effect from the Effective Date up through and including December 31, 2002: Notwithstanding any other provisions of this **Schedule C**, (x) MBNA America shall no longer be obligated to pay any additional Advances to University of Pittsburgh hereunder, and (y) University of Pittsburgh 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) and (ii) below should occur:

(i) the Agreement is terminated prior to or on December 31, 2002; or

(ii) University of Pittsburgh materially breaches any of its obligations under this Agreement, including, but not limited to the breach of its obligations under Section 3(n) and Section 3(o).

- (b) The following provisions are in effect from January 1, 2003 up through and including June 30, 2004: Notwithstanding any other provisions of this **Schedule C**, (x) MBNA America shall no longer be obligated to pay any additional Advances to University of Pittsburgh hereunder, and (y) **except as otherwise expressly provided for in Section E.4. below**, University of

Pittsburgh hereby promises to pay MBNA America upon demand an amount equal to the difference between the total amount of the Advances paid by MBNA America and the total amount of accrued Royalties credited by MBNA America against such Advances as of the date of demand, in the event any of the conditions set forth in Clauses (i) and (ii) below should occur:

(i) the Agreement is terminated on or after January 1, 2003 and prior to or on June 30, 2004; or

(ii) University of Pittsburgh materially breaches any of its obligations under this Agreement, as determined in accordance with the provisions of Section E.5. below, including, but not limited to the breach of its obligations under Section 3(n) and Section 3(o).

(c) The following provisions are in effect on and after July 1, 2004: Notwithstanding any other provisions of this **Schedule C** (x) MBNA America shall no longer be obligated to pay any additional Advances to University of Pittsburgh hereunder, and (y) **except as otherwise expressly provided for in Section E.4. below**, University of Pittsburgh hereby promises to pay MBNA America upon demand an amount equal to the difference between the total amount of the last Advance paid by MBNA America and the total amount of accrued Royalties credited by MBNA America against such Advance as of the date of such demand, in the event any of the conditions set forth in Clauses (i) and (ii) below should occur:

(i) the Agreement is terminated on or after July 1, 2004; or

(ii) University of Pittsburgh materially breaches any of its obligations under this Agreement, as determined in accordance with the provisions of Section E.5. below, including, but not limited to the breach of its obligations under Section 3(n) and Section 3(o).

3. If during any given year(s) during the initial term of this Agreement MBNA America recoups all prior Advances paid by it to University of Pittsburgh in prior years, and pays University of Pittsburgh Royalties accrued by University of Pittsburgh 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.
4. Notwithstanding any other provisions of this **Schedule C**, if University of Pittsburgh believes that MBNA America has materially breached the Agreement; University of Pittsburgh shall notify MBNA America in accordance with Section 11(a)(i). If University of Pittsburgh reasonably believes that MBNA America has not cured or substantially cured the material breach within the Cure Period or MBNA America alleges that it is has not materially breached the Agreement then

the parties agree to settle the issue by arbitration conducted in Wilmington, Delaware by the American Arbitration Association ("AAA") in accordance with the rules thereof then pertaining. MBNA America shall not be obligated to pay any additional Advances as they become due, if any, during the period of arbitration. The fees of the AAA shall be borne by the parties equally. If the arbitrator determines that MBNA America has not materially breached the Agreement or has cured the material breach within the Cure Period then the Agreement will remain in full force and effect. If the arbitrator determines that MBNA America has materially breached the Agreement and has not cured or substantially cured the breach then University of Pittsburgh may terminate the Agreement and if the Agreement is so terminated for any such breach after January 1, 2003, or if the Agreement is terminated by University of Pittsburgh in accordance with Section 11(a)(ii) after January 1, 2003 or by MBNA America in accordance with Section 11(a)(iii) after January 1, 2003, then MBNA America shall be obligated to pay to University of Pittsburgh an amount equal to the difference between Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000.00) and all compensation (including the Advances) paid by MBNA America to University of Pittsburgh (the "Termination Payment") and University of Pittsburgh shall have no obligation to repay any compensation previously paid by MBNA America to University of Pittsburgh. The parties agree that any subsequent order for MBNA America to pay any monies to University of Pittsburgh (e.g. a court decision) shall be reduced by the amount of the Termination Payment.

5. Notwithstanding any other provisions of this **Schedule C**, if MBNA America believes that University of Pittsburgh has materially breached the Agreement; MBNA America shall notify University of Pittsburgh in accordance with Section 11(a)(i). If MBNA America reasonably believes that University of Pittsburgh has not cured or substantially cured the material breach within the Cure Period or University of Pittsburgh alleges that it is has not materially breached the Agreement then the parties agree to settle the issue by arbitration conducted in Pittsburgh, Pennsylvania by the American Arbitration Association ("AAA") in accordance with the rules thereof then pertaining. MBNA America shall not be obligated to pay any additional Advances as they become due, if any, during the period of arbitration. The fees of the AAA shall be borne by the parties equally.

F. ROYALTY GUARANTEE

University of Pittsburgh shall be guaranteed to accrue Royalties (including without limitation the amount of the Advances) equal to or greater than the following amounts by the following dates:

<u>Guaranteed Date</u>	<u>Dollar Amount</u>
June 30, 2003	\$2,000,000.00
June 30, 2004	\$ 722,222.00
June 30, 2005	\$ 722,222.00
June 30, 2006	\$ 722,222.00
June 30, 2007	\$ 722,222.00
June 30, 2008	\$ 722,222.00
June 30, 2009	\$ 722,222.00
June 30, 2010	\$ 722,222.00
June 30, 2011	\$ 722,222.00
June 30, 2012	\$ 722,224.00

(each, a "Guarantee Amount") for a total of Eight Million Five Hundred Thousand Dollars (\$8,500,000.00) (the "Term Guarantee") by the Expiration Date. 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 Section E.2.above.

SCHEDULE D

MARKS

Attached

SCHEDULE E

NON-COMPETITION REQUIREMENTS

Until June 25, 2003, the University of Pittsburgh, directly or indirectly, is prohibited from targeting any offer of a credit card or credit card related product to Members possessing an account with First USA Bank ("FUSA"). On the Effective Date, FUSA account holders may be offered the opportunity to participate in another credit card program endorsed by the University of Pittsburgh, provided that (i) such offer is not made only to FUSA account holders but rather as a part of a general solicitation to all Members, and (ii) no Members are directly or indirectly identified as a cardmember of FUSA or offered incentives different from that offered to all Members.

SCHEDULE F

MARKETING OPPORTUNITIES

In accordance with Section 3(o) of this Agreement, University of Pittsburgh shall provide MBNA America the following sponsorship and marketing opportunities during each Annual Marketing Plan:

A. DIRECT PROMOTION

1. *Athletic Events.* MBNA America may conduct on-campus promotion campaigns (e.g., tabling and postering) at athletic events as specified below:
 - (a) UNIVERSITY FOOTBALL HOME GAMES – MBNA America shall receive the right to set up three (3) promotional display areas at all University of Pittsburgh football home games each season.
 - (b) UNIVERSITY BASKETBALL HOME GAMES – MBNA America shall receive the right to at least four (4) promotional display areas at all University of Pittsburgh Men's and Women's basketball home games each season.
2. *Other Events.* In addition, the University of Pittsburgh and MBNA America may mutually agree upon other event marketing opportunities other than those listed above.
3. *Access.* The University of Pittsburgh shall use its best efforts to provide MBNA America with access reasonably necessary to conduct the direct promotion events. Such access shall include admission passes, vehicular access, and parking passes. The specific terms of access, including timing, shall be coordinated through the University of Pittsburgh's Director of Alumni Marketing. To the extent within the control of the University of Pittsburgh, the locations assigned to MBNA America in connection with direct promotion events shall be in prominent locations and shall be mutually agreed upon by the University of Pittsburgh and MBNA America. Any other issues relating to direct promotion events not specifically identified in this **Schedule F** shall also be mutually agreed upon by MBNA America and the University of Pittsburgh.
4. *Compliance.* Notwithstanding any other provision of this **Schedule F**, MBNA America acknowledges that (i) the University of Pittsburgh is not the owner of Heinz Field (the venue for the University of Pittsburgh's football home games), (ii) MBNA America's direct promotion activities with respect to Heinz Field may be subject to and limited by requirements imposed by third parties not within the control of the University of Pittsburgh, and (iii) Heinz Field may be subject to certain local governmental ordinances. . To the extent that they are informed of the rules, regulations, and requirements MBNA agrees that all MBNA employees and agents will comply with any such limitations and governmental ordinances in connection with its direct promotion activities.

B. PROMOTIONAL MATERIALS

Positioning of applications and other marketing materials at mutually agreeable locations on the University of Pittsburgh campus.

SCHEDULE G

FORM W-9

Attached

**ADDENDUM NO. 1
TO THE
UNIVERSITY OF PITTSBURGH
AFFINITY AGREEMENT**



THIS ADDENDUM NO. 1 (this "Addendum") is entered into this 25 day of June, 2003, by and between University of Pittsburgh – Of the Commonwealth System of Higher Education ("University of Pittsburgh"), and MBNA America Bank, N.A. ("MBNA America").

WHEREAS, University of Pittsburgh and MBNA America are parties to an affinity agreement dated May 24, 2002 (the "Agreement"); and

WHEREAS, University of Pittsburgh and MBNA America mutually desire to amend the Agreement to include a Reward Credit Card Account as another Program Product under the Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained herein, University of Pittsburgh and MBNA America agree as follows:

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

2. Schedule B of the Agreement is hereby amended by adding the following new Section A-1:

"A-1. REWARD CREDIT CARD ACCOUNT

"Reward Credit Card Account" means a Credit Card Account carrying a Reward Enhancement (defined below) and opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is no annual fee.
2. The current annual percentage rate is a fixed rate of 12.99%.
3. Customers receive a loyalty reward enhancement (a "Reward Enhancement"), which Reward Enhancement may be marketed under another name as determined by MBNA America from time to time, in its sole discretion."

3. Schedule C of the Agreement is hereby amended by adding the following new Section A-1:

"A-1. REWARD CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Reward Credit Card Account opened, which remains open for at least ninety (90) consecutive days. This Royalty will not be paid for any Credit Card Account which, after opening, converts to a Reward Credit Card 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% (twenty one-hundredths of one percent) of all retail purchase transaction dollar volume generated by Customers using a 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. Except as amended by this Addendum, all the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument. The Agreement, as amended by this Addendum, contains the entire agreement of the parties with respect to the matters covered and no other prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding.

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

UNIVERSITY OF PITTSBURGH – OF THE
COMMONWEALTH SYSTEM OF HIGHER
EDUCATION

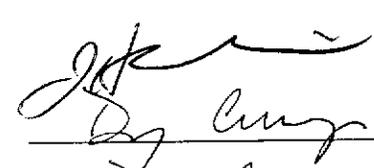
By: 

Name: Jerome Cochran

Title: Executive Vice Chancellor

Date: 5/8/03

MBNA AMERICA BANK, N.A.

By: 

Name: D.M. Cummings

Title: SEVP

Date: 6/25/03