

WASHINGTON UNIVERSITY  
AFFINITY AGREEMENT

This Agreement is entered into as of this 15th day of June, 1997 (the "Effective Date") by and between MBNA AMERICA BANK, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("MBNA America"), and WASHINGTON UNIVERSITY, having its principal place of business in St. Louis, Missouri ("WU") 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 (W-9 tax identification form).
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program. An "Alumni Customer Credit Card Account" is a Credit Card Account where the primary applicant is an Alumni Customer. A "Student Customer Credit Card Account" is a Credit Card Account where the primary applicant is a Student Customer. A "Plus Miles Credit Card Account" is a Credit Card Account carrying the Plus Miles enhancement.
- (c) "Customer" means any Member who is a participant in the Program.
  - (i) "Student Customer" means a Customer who is identified by WU or the Customer as an undergraduate student of Washington University.
  - (ii) "Alumni Customer" means a Customer who is not a Student Customer.
- (d) "Financial Service Products" means credit card programs, charge card programs, debit card programs with a credit feature, installment loan programs, revolving loan programs, deposit programs, long distance calling card programs with a credit feature, and travel and entertainment or frequent travel reward card programs. This definition does not include WU's Cache Card program and WU's procurement card program, used by agents or employees of the University to make purchases on behalf of WU, as such programs are currently structured and delineated as of the date of this agreement.
- (e) "Mailing Lists" means updated and current lists and/or magnetic tapes (in a format designated by MBNA America) containing names, postal addresses and, when available, telephone numbers of Members segmented by zip codes or reasonably selected membership characteristics.
- (f) "Member" means undergraduate students, graduate students, alumni of Washington University and/or other potential participants mutually agreed to by WU and MBNA America.

(g) "Program" means the 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 payments due from MBNA America to WU for the use of its name, logo, trademark or servicemark as set forth in Schedule B.

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

## 2. RIGHTS AND RESPONSIBILITIES OF WU

(a) WU agrees that during the term of this Agreement: (i) it will endorse the Program exclusively and will not sponsor, advertise, aid, develop or solicit any Financial Service Products of any organization other than MBNA America with the exception of advertisements placed in Student Life for American Express; and (ii) it will not license or allow others to license the Trademarks in relation to or for promoting any Financial Service Products of any entity other than MBNA America; and it will not sell, rent or otherwise make available or allow others to sell, rent or otherwise make available any of its mailing lists or information about any current or potential Members in relation to or for promoting any Financial Service Products of any entity other than MBNA America. Notwithstanding anything else in this Agreement to the contrary, WU may accept advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by WU of said financial institution or the advertised Financial Service Product.

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

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

(d) WU shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain WU's Trademark or the endorsement by WU; such approval shall not be unreasonably withheld or delayed.

(e) Upon the request of MBNA America, WU shall provide MBNA America with Mailing Lists free of any charge. In the event that MBNA America incurs a cost because of a charge assessed by WU or its agents for an initial Mailing List or an update to that list, MBNA America may deduct such costs from Royalties due WU. The Mailing List shall contain at least one hundred eight thousand (108,000) names with corresponding postal addresses and, when available, telephone numbers.

(f) WU 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 WU. Notwithstanding the above, WU 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 WU. Any correspondence received by WU that is intended for MBNA America (e.g., applications, payments, billing inquiries, etc.) shall be forwarded to the MBNA America account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by MBNA America.

(g) WU 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 permitted assignment of this Agreement. This license shall remain in effect for the duration of this Agreement and shall apply to the Trademarks, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization or individual. Nothing stated in this Agreement prohibits WU from granting to other persons a license to use the Trademarks in conjunction with the providing of any other service or product, except for any Financial Service Products.

### 3. RIGHTS AND RESPONSIBILITIES OF MBNA AMERICA

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

(b) MBNA America shall design all advertising, solicitation and promotional materials with regard to the Program. MBNA America reserves the right of prior written approval of all advertising and solicitation materials concerning or related to the Program, which may be developed by or on behalf of WU.

(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 WU.

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

(f) Each year during the term of this Agreement, MBNA America shall hire one (1) WU undergraduate student as a summer intern for MBNA America; provided, however, that MBNA America's failure to hire such students shall not be deemed a material breach of this Agreement. Such hiring decision will be made solely by MBNA America (or its affiliate, as applicable).

#### 4. REPRESENTATIONS AND WARRANTIES

(a) WU and MBNA America each represents and warrants to the other that as of the Effective Date and throughout the term of this Agreement:

(i) It is duly organized, validly existing and in good standing.

(ii) It has all necessary power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

(iii) This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(iv) No consent, approval or authorization from any third party is required in connection with the execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.

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

(b) WU 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. WU and MBNA America 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 WU or MBNA America, respectively as the case may be, or its directors, officers or employees. WU will indemnify and hold harmless MBNA America and its Indemnitees from and against any and all Losses 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 that may reasonably result in the indemnification by the other party.

#### 5. ROYALTIES

(a) During the term of this Agreement, MBNA America shall pay Royalties to WU. Royalties will not be paid without a completed Schedule C. Except as otherwise provided in Schedule B, payment of Royalties then due shall be made approximately forty-five (45) days after the end of each calendar quarter. Plus Miles Credit Card Accounts shall generate solely the Royalties specified in Schedule B, Section B hereof.

(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 WU with a statement showing the number of Credit Card Accounts opened, the number of Credit Card Accounts renewed and the retail

purchase dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar period.

#### 6. PROGRAM ADJUSTMENTS

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

#### 7. CONFIDENTIALITY OF AGREEMENT

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

#### 8. TERM OF AGREEMENT

(a) The initial term of this Agreement will begin on the Effective Date and end on July 31, 2002. This Agreement will automatically extend at the end of the initial term or any renewal term for successive two-year periods, unless either party gives written notice of its intention not to renew at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the last date of such term or renewal term, as applicable.

(b) Schedule A is accurate as of April 22, 1997, and MBNA America shall not adjust the rate provisions of this Schedule A for 90 days from such date.

#### 9. STATE LAW GOVERNING AGREEMENT

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

#### 10. TERMINATION

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

(c) Upon termination of this Agreement, MBNA America shall, in a manner consistent with Section 10(d) of this Agreement, cease to use the Trademarks. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the Trademarks or to the Mailing Lists provided pursuant to this Agreement. However, MBNA America may conclude all solicitation that is required by law.

(d) MBNA America shall have the right to prior review and approval of any notice in connection with, relating or referring to the termination of this Agreement to be communicated by WU to the Members. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, WU shall not attempt to cause the removal of WU's identification or Trademarks from any person's credit devices, checks or records of any Customer existing as of the effective date of termination of this Agreement.

#### 11. MISCELLANEOUS

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

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

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

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

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

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

(1) If to WU:

Washington University  
One Brookings Drive  
St. Louis, Missouri 63130-4899

ATTENTION: Ms. Laura H. Ponte,  
Director of Alumni Relations

Copy to: Office of General Counsel

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.  
Wilmington, Delaware 19884-0036

ATTENTION: John Richmond  
Senior Executive Vice President

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

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

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

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

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

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

WASHINGTON UNIVERSITY

By: David Blasingame

Name: DAVID BLASINGAME

Title: VICE CHANCELLOR

MBNA AMERICA BANK, N.A.

By: John C. Richmond

Name: JOHN C. RICHMOND

Title: Sr. Ex. V. P.

## 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 (OTHER THAN PLUS MILES CREDIT CARD ACCOUNTS)

1. There is NO annual fee.
2. For Alumni Customers the current annual percentage rate will be a variable rate of prime plus 7.9%. For variable rate accounts, there may be an additional margin applied on account of the Alumni Customer's delinquency.
3. For Platinum Customers the current annual percentage will be a variable rate of prime plus 7.4%. For variable rate accounts, there may be an additional margin applied on account of the Alumni Customer's delinquency.
4. For Student Customers the current annual percentage rate will be a variable rate of prime plus 9.9%. For variable rate accounts, there may be an additional margin applied on account of the Student Customer's delinquency.
5. Customers may be offered opportunities to select credit insurance as a benefit under the Program.

#### B. PLUS MILES CREDIT CARD ACCOUNTS

1. \$35.00 (Thirty-Five Dollar) Yearly Enrollment Charge for the Optional Plus Miles Enhancement.
2. The current annual percentage rate will be a variable rate of prime plus 7.4%. There may be an additional margin applied on account of the customer's delinquency.

#### 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 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 17.9%.

D. GOLD OPTION ACCOUNTS

"Gold Option Account" means a GoldOption<sup>SM</sup> (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 14.99%.

## SCHEDULE B

### ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay WU a Royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of Royalties by MBNA America:

A. CREDIT CARD ACCOUNTS (OTHER THAN PLUS MILES CREDIT CARD ACCOUNTS)

1. \$1.00 (one dollar) for each new Credit Card Account (except a Plus Miles account) opened, which remains open for at least ninety (90) consecutive days.
2. \$3.00 (three dollars) for each Alumni Customer Credit Card Account (except a Plus Miles account) for which the annual fee is paid by the Alumni 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 Customer Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. \$3.00 (three dollars) for each Student Customer Credit Card Account (except a Plus Miles account) for which the annual fee is paid by the Student 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 Customer Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
4. 0.50% (one half of one percent) of all retail purchase transaction dollar volume generated by Alumni Customers using an Alumni Customer Credit Card Account (except a Plus Miles account) (excluding those transactions that relate to refunds, returns and/or unauthorized transactions (e.g., the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips)).
5. 0.50% of all cash advance volume generated by Alumni Customers using an Alumni Customer Credit Card Account (except a Plus Miles account) (excluding those transactions related to unauthorized transactions(e.g., the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips)).
6. 0.40% (four tenths of one percent) of all retail purchase transaction dollar volume generated by Student Customers using a Student Customer Credit Card Account

(except a Plus Miles account) (excluding those transactions that relate to refunds, returns and/or unauthorized transactions (e.g., the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips)).

7. 1% (one percent) of phone transaction dollar volume (excluding phone transactions that relate to refunds and unauthorized calls) made through the long distance calling card service and residential phone service benefits by Customers who have a Credit Card Account (except a Plus Miles account). NOTE: Phone transactions will not qualify for any other transaction-based royalty.

**B. PLUS MILES CREDIT CARD ACCOUNTS**

1. \$1.00 (one dollar) for each new Plus Miles 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 Plus Miles Credit Card Account.
2. \$17.00 (seventeen dollars) for each Plus Miles 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 Plus Miles 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 Plus Miles Credit Card Account was opened; and 2) has had active charging privileges for each of the preceding twelve months. A Plus Miles Credit Card Account may renew every twelve (12) months after the opening of the account.

**C. 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.

**D. 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.

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. 0.10% (ten one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.00833330%) 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. ROYALTY ADVANCE

1. Upon full execution of this Agreement and the completion of the first Full Marketing Campaign (as defined herein) by MBNA America shall pay to WU the sum of two million three hundred forty-five thousand dollars (\$2,345,000) (the "Advance"), as an advance against future Royalties, subject to the provisions set forth below. All Royalties accrued shall, in lieu of direct payment to WU, be applied against the Advance until such time as the Advance is fully recouped. Any Royalties accrued thereafter shall be paid to WU as set forth in this Agreement. Notwithstanding the foregoing, WU hereby promises to pay MBNA America upon demand an amount equal to the difference between the amount of the Advance and the total amount of accrued Royalties credited by MBNA America against the Advance 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; or
- (ii) WU materially breaches any of its obligations under this Agreement; or
- (iii) MBNA America is prohibited or otherwise prevented from conducting at least three (3) direct mail campaigns to the full updated Mailing list during each consecutive twelve month period during the term of the Agreement; or
- (iv) MBNA America is prohibited or otherwise prevented from conducting at least two (2) telemarketing campaigns to the full updated Mailing List

during each consecutive twelve month period during the term of the Agreement; or

(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; or

(vi) WU or an affiliate of either, directly or indirectly, markets or permits the marketing of any card device (multifunction or single purpose) to any of the Members that contains at any time a credit or charge feature.

2. A "Full Marketing Campaign" consists of a direct mail campaign to the full updated Mailing List and a telemarketing campaign using the full updated Mailing List.

3. In the event that any of the conditions in Section G, 1(i) through (vi) occurs, WU acknowledges and agrees that MBNA America will delay its demand that WU refund to MBNA America any difference between the amount of the Advance and the total amount of accrued Royalties credited by MBNA America against the Advance until the end of the initial term of this Agreement.

#### G. ROYALTY GUARANTEE

WU shall be guaranteed to accrue Royalties (including without limitation the amount of the Advances equal to or greater than two million three hundred forty-five thousand dollars (\$2,345,000) (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 the Agreement WU has not accrued \$2,345,000 in Royalties, MBNA America will pay WU an amount equal to the Guarantee Amount minus the sum of all compensation accrued by WU during the initial term of this Agreement and all unrecouped Advances. 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 1., above.

#### H. ADDITIONAL COMPENSATION

In addition, upon the full execution of the Agreement, MBNA America shall pay to WU:

1. a one time signing bonus of five hundred five thousand dollars (\$505,000),
2. on each anniversary of the Effective Date, an annual corporate sponsorship of five thousand dollars (\$5,000),
3. on each anniversary of the Effective Date, an annual scholarship of twenty five thousand dollars (\$25,000).

**ADDENDUM**

**THIS ADDENDUM** (the "Addendum") is entered into this 13<sup>th</sup> day of July, ~~1998~~ <sup>1999</sup> by and between Washington University ("WU") and MBNA America Bank, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, WU and MBNA America are parties to an affinity agreement dated June 12, 1997 (the "Agreement"); and

WHEREAS, WU and MBNA America mutually desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained herein, WU 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. Section 1(d) of the Agreement is hereby amended to read in its entirety as follows:

(d) "Financial Service Products" means credit card programs, charge card programs, debit card programs with a credit feature, installment loan programs, revolving loan programs, deposit programs, long distance calling card programs with a credit feature, and travel and entertainment or frequent travel reward card programs. This definition does not include: (i) student financial aid programs; or (ii) WU's Cache Card program and WU's procurement card program, used by agents or employees of the University to make purchases on behalf of WU, as such programs are currently structured and delineated as of the date of this Agreement.

3. Section 2(a) of the Agreement is hereby amended to read in its entirety as follows:

(a) WU agrees that during the term of this Agreement: (i) it will endorse the Program exclusively and will not promote, endorse or offer to Members any Financial Service Products of any organization other than MBNA America with the exception of advertisements placed in Student Life for American Express; and (ii) it will not license or allow other to license the Trademarks in relation to or for promoting any Financial Service Products of any entity other than MBNA America; and it will not sell, rent or otherwise make available 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, WU may accept advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by WU of said financial institution or the advertised Financial Service Product.

4. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum.

5. 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.

WASHINGTON UNIVERSITY

By: David Blasingame

Name: DAVID BLASINGAME

Title: Vice Chancellor

MBNA AMERICA BANK, N.A.

By: John Richmond

Name: JOHN RICHMOND

Title: SEVA

## TERM EXTENSION ADDENDUM

THIS ADDENDUM (the "Addendum") is entered into this 2<sup>ND</sup> day of AUG, 2002 by and between Washington University ("WU"), and MBNA America Bank, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, WU and MBNA America are parties to an affinity agreement dated June 12, 1997, (the "Original Agreement") as amended by an addendum dated July 13, 1999, (the "Agreement"); and

WHEREAS, WU and MBNA America mutually desire to extend the term of the Agreement and modify some of its terms;

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained herein, WU 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 Original Agreement. The term "Contract Year" shall mean the year that commences August 1<sup>st</sup> of one calendar year and ends July 31<sup>st</sup> of the following calendar year.
2. Section 8 of the Original Agreement is hereby amended to read in its entirety as follows:  
  
The initial term of this Agreement will begin on the Effective Date and end of July 31, 2002. The second term of this Agreement will begin immediately upon the conclusion of the initial term (such that the Agreement remains in full force and effect) and will end on July 31, 2007. This Agreement will automatically extend at the end of the second term or any renewal term for successive two-year periods, unless either party give 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.
3. Effective August 1, 2002,
  - (a) Sections A.5. of Schedule B of the Original Agreement shall be deleted in its entirety; and
  - (b) Sections I and J as set forth in Exhibit 1 of this Addendum, attached hereto and incorporated herein by reference, shall be added to the end of Schedule B of the Original Agreement.
4. The terms of Section H of Schedule B of the Original Agreement are hereby deleted and replaced in their entirety with the following:

### H. ADDITIONAL COMPENSATION

Effective August 1, 2003, if during the prior contract year, MBNA America has opened at least five hundred new Credit Card Accounts, MBNA America shall pay WU the following:

1. an annual corporate sponsorship of five thousand dollars (\$5,000.00); and
2. an annual scholarship of twenty five thousand dollars (\$25,000.00).

5. CUSTOMER LIST

(a) By March 1<sup>st</sup> each Calendar Year during the term of the Agreement (provided that notice of a party's intention to termination the Agreement has not been given), MBNA America shall provide WU with a list of information (*e.g.*, names and addresses) about Customers as may be mutually agreed upon by the parties (hereinafter the "Customer List"). When used in this Addendum, the term "Customer List" includes any whole or partial copies or compilations of a Customer List in any form or any medium, any information derived solely from a Customer List, and all Customer Information, as hereinafter defined. Notwithstanding any provision of the Agreement, MBNA America shall not provide any Customer List or Customer Information otherwise required to be provided by it to WU, and may restrict any use by WU of any Customer List or Customer Information which is provided by MBNA America to WU, if MBNA America is prohibited from disclosing the same or permitting such use because of any law, regulation, bankwide privacy policy, public privacy pledge, court order, rule, consent decree, or individual present or former Customer request, or if the provision of such information or its intended use would create an additional regulatory compliance burden on MBNA America.

(b) WU shall return to MBNA America each Customer List, in the same form as received by WU within thirty (30) days of receipt of such Customer List. On or before the effective date of termination of the Agreement, WU agrees that it shall: (i) immediately destroy and purge from all its systems all information within each Customer List to the extent that such information in any way relates to MBNA America, the Program or Credit Card Accounts ("Customer Information"); and (ii) return or destroy within thirty (30) days all Customer Information that is in tangible form, including any and all full or partial copies, or reproductions thereof in any medium whatsoever. All destruction of Customer Lists shall be done in strict accordance with MBNA America's then current destruction policy.

(c) Any Customer List provided to WU may contain "dummy" information (*e.g.*, names, account information, addresses, *etc.*) so that unauthorized use of a Customer List may be determined. This information will be unknown to WU. A violation of this Addendum is conclusively proven when MBNA America establishes the following:

- (1) that MBNA America placed "dummy" information on the list (*e.g.*, name(s), account information, address(es), *etc.*);
- (2) that the "dummy" information received any mailings which were sent or generated outside the scope of the permitted use of the Customer List; and
- (3) that identical "dummy" information was not provided by MBNA America or its affiliates to any third party.

(d) (1) This subparagraph (1) is subject in its entirety to subparagraph (2) below. All Customer Lists are (i) confidential and proprietary and (ii) shall remain the sole property of MBNA America. WU expressly acknowledges and agrees that WU has no property right or interest whatsoever in any Customer List. WU shall hold all Customer Lists in strict and absolute confidence and shall not provide, trade, give away, barter, lend, send, sell or otherwise disclose (collectively "transfer") any Customer List and shall not make any copies of a Customer List of any type whatsoever except as expressly approved in a separate writing by MBNA America. At all times WU shall keep in confidence and trust all Customer Lists. WU further agrees that it shall not transfer any Customer List to any other organization or individual under any circumstances, and WU specifically but not by way of limitation agrees that no subcontractors and/or affiliates shall be transferred any Customer List unless agreed to in writing by MBNA America prior to any such transfer. (This paragraph would prohibit, by means of example only, transferring any list of MBNA America cardholders to any financial institution during the term of the Agreement or after the termination of the Agreement.)

(2) All employee, faculty, student and/or alumni lists maintained by WU and containing information gathered solely by WU are confidential and proprietary and shall remain the sole property of WU. This applies to any and all such list provided to MBNA America pursuant to the Agreement regardless of whether such information is also found in whole or in part in the Customer List prepared by MBNA America. The information referenced in this subparagraph (2) does not include the fact that any employee, faculty member, student and/or alumnus had or has any relation to the Program, MBNA America, or any MBNA America account.

(e) WU shall have no authority to use the Customer List for any purpose not expressly permitted by MBNA America in a separate writing. MBNA America hereby gives its permission to WU to make use of the Customer Lists for the purpose of determining donor participation levels. WU shall comply with any reasonable request of MBNA America with respect to security precautions to maintain the security of the Customer List. WU agrees to secure and safeguard the Customer List in strict accordance with the requirements of this Section and MBNA America's instructions, as communicated by MBNA America to WU from time to time. WU shall only permit access to the Customer List to those employees, volunteers, agents and/or representatives of WU who need such access to perform their duties for WU. In view of the confidential nature of the Customer List, WU warrants that WU and all its employees, volunteers, agents and/or representatives who work with any Customer List shall be made aware of the obligations contained in this Section and shall be under strict legal obligation not to copy any Customer List, transfer any Customer List or make any other use of any Customer List other than as specifically approved by this Section.

(f) In the event that any Customer List is handled or used in a fashion that violates this Addendum by WU or its employees, volunteers, agents, and/or representatives, WU agrees that MBNA America shall be entitled to injunctive relief to prevent violation or further violation by WU and/or its employees, volunteers, agents or representatives of this Addendum. Nothing herein shall be construed as prohibiting MBNA America from pursuing any other remedy on account of such breach or threatened breach.

(g) In the event WU receives a request to disclose a Customer List pursuant to a subpoena, order of court of competent jurisdiction or by judicial or administrative agency or legislative body or committee, WU agrees to: (i) immediately notify MBNA America of the existence, terms and circumstances surrounding such request; (ii) consult with MBNA America on the advisability of taking legally available steps to resist or narrow such request; and (iii) if disclosure of such Customer List is required or deemed advisable, cooperate with MBNA America in any effort to obtain an appropriate restraining order or other court protection, provided that MBNA America reimburses WU for any cost or expense, reasonably approved by MBNA America, WU may incur in this regard.

(h) The rights and obligations set forth in the Customer List Section of this Addendum (except MBNA America's obligation to provide WU with a Customer List) shall survive the termination of the Agreement.

6. When conducting telemarketing campaigns under the Program, MBNA America shall suppress marketing leads as required by all applicable state and federal "No Call" laws.

7. 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. Certain Financial Service Products or services under the Agreement may be offered through MBNA America's affiliates. For example, business credit cards are currently issued and administered by MBNA America (Delaware), N.A., and certain marketing services are currently provided by MBNA Marketing Systems, Inc.

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.

WASHINGTON UNIVERSITY

MBNA AMERICA BANK, N.A.

By: David Blasingame

By: Michael Durroh

Name: DAVID BLASINGAME

Name: Michael Durroh

Title: VICE CHANCELLOR

Title: SE VP

Date: July August 2, 2002

Date: Aug. 8, 2002

## Exhibit 1

### I. ROYALTY ADVANCES FOR THE SECOND TERM

1. On August 1, 2002, and each August 1<sup>st</sup> up to, and including, August 1, 2006 during the second term of this Agreement, MBNA America shall pay to WU the sum of two hundred seventy thousand dollars (\$270,000.00) (each, a "Second Term Advance"), as an advance against future Royalties, subject to the provisions set forth in Section J, below. All Royalties accrued during the second term shall, in lieu of direct payment to WU, be applied against each of the Second Term Advances until such time as all Second Term Advances are fully recouped. Any Royalties accrued thereafter shall be paid to WU as set forth in this Agreement. Notwithstanding the foregoing, MBNA America shall no longer be obligated to pay any additional Second Term Advances to WU hereunder, and WU hereby promises to pay MBNA America upon demand an amount equal to the difference between the total amount of the Second Term Advance(s) paid by MBNA America and the total amount of accrued Royalties credited by MBNA America against such Second Term 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 second term as stated in this Agreement;
- (ii) WU materially 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 containing the names of alumni and students during each consecutive twelve month period during the term of the Agreement;
- (iv) MBNA America is prohibited or otherwise prevented from conducting at least four (4) telemarketing campaigns to the full updated Mailing List containing the names of alumni and students during each consecutive twelve month period during the term of the Agreement; and
- (v) MBNA America is prohibited from conducting on-campus promotion campaigns (e.g., tabling and postering) at major events during each one year period during the term of the Agreement except WU may prevent MBNA America from conducting a direct promotion event if MBNA America is then in material breach of the Agreement. For this purpose, major events at which MBNA America may conduct on-campus promotional campaigns must be approved in advance by WU. WU agrees its approval will not be unreasonably withheld.

2. If during any given year(s) during the second term of this Agreement MBNA America recoups all prior Second Term Advances paid by it to WU in prior years, and pays WU Royalties accrued by WU 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 Second Term Advance(s) due by the amount of any such Paid Out Royalties.

J. ROYALTY GUARANTEE FOR THE SECOND TERM

WU shall be guaranteed to accrue Royalties (including without limitation the amount of the Second Term Advances) equal to or greater than one million three hundred fifty thousand dollars (\$1,350,000.00) by the end of the full second term of the Agreement (the "Second Term Guarantee Amount"), subject to the provisions set forth below. If on the last day of the full second term of this Agreement WU has not accrued \$1,350,000.00 in Royalties, MBNA America will pay WU an amount equal to the Second Term Guarantee Amount minus the sum of all compensation accrued by WU during the second term of this Agreement and all unrecouped Second Term Advances. Notwithstanding the foregoing, this Second Term 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 I.1., above.

## ADDENDUM TO THE WASHINGTON UNIVERSITY AFFINITY AGREEMENT

THIS ADDENDUM (the "Addendum") is entered into this 30<sup>th</sup> day of May, 2003 by and between Washington University ("WU"), and MBNA America Bank, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, WU and MBNA America are parties to an affinity agreement dated June 12, 1997, as the same was amended by addendum dated July 13, 1999, and by addendum dated August 2, 2002 (the "Agreement"); and

WHEREAS, WU and MBNA America mutually desire to amend the Agreement to include the loyalty reward enhancement as another aspect of the Program;

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained herein, WU 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. Section 1 of the Agreement is hereby amended by adding the following new subsections (j) and (k):
  - (j) "Reward Credit Card Account" means a credit card carrying the Reward Enhancement and opened pursuant to the Program.
  - (k) "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.
3. Schedule A of the Agreement is hereby amended by adding the following new Section E:
  - E. REWARD CREDIT CARD ACCOUNTS (OTHER THAN PLUS MILES CREDIT CARD ACCOUNTS)
    1. There is no annual fee.
    2. The current annual percentage rate is 12.99%.
    3. The Reward Enhancement may be marketed under another name (e.g., Plus Rewards, WorldPoints), as determined by MBNA America from time to time, in its sole discretion.
4. Schedule B of the Agreement is hereby amended by adding the following new Section K:
  - K. REWARD CREDIT CARD ACCOUNTS (OTHER THAN PLUS MILES CREDIT CARD ACCOUNTS)

Reward Credit Card Accounts shall only generate the Royalty compensation set forth in this Schedule B, Section K 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. This Royalty will not be paid for any Credit Card Account which, after opening, converts to a Reward Credit Card Account.
2. \$3.00 (three dollars) for each Reward Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by 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)).

5. 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. Certain Financial Service Products or services under the Agreement may be offered through MBNA America's affiliates. For example, business credit cards are currently issued and administered by MBNA America (Delaware), N.A., and certain marketing services are currently provided by MBNA Marketing Systems, Inc.

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.

WASHINGTON UNIVERSITY

By: David T. Blasingame  
Name: DAVID T. BLASINGAME  
Title: VICE CHANCELLOR  
Date: 6/4/03

MBNA AMERICA BANK, N.A.

By: D. H. [Signature]  
Name: HAL EVSKINE  
Title: SEVP  
Date: 9/2/03

**FIA CARD SERVICES™**

7/17/09

Pamella Henson  
Associate Vice Chancellor  
Washington University  
One Brookings Drive  
St. Louis, MO 63130-4899

RE: Amendment and Extension of Agreement

Dear Ms. Henson:

This letter confirms our understanding that FIA Card Services, N.A., f/k/a MBNA America Bank, N.A. ("Bank") and Washington University ("WU") would like to extend the current term of the Affinity Agreement dated as of June 12, 1997 (as it may have been amended) wherein Bank provides Financial Service Products to customers of WU (the "Agreement").

In consideration of the parties' mutual desire to provide time to negotiate the terms of a new Agreement and other good and lawful consideration, the parties agree that the current term of the Agreement shall be extended to October 31, 2009, and, thereafter, the term of the Agreement shall automatically extend at the end of the then current term and any renewal term for a period of sixty (60) days, until either party gives written notice of its intention not to renew the current term. Such notice shall be delivered to the other party at least thirty (30) days prior to the last date of the then current term.

Effective August 1, 2009, the parties agree that Schedule B of the Agreement shall be amended to: delete the term "\$3.00 (three dollars)" in subsection A.3. and replacing it with "\$0.00 (zero dollars)"; and to delete the term "0.40% (four tenths of one percent)" in subsection A.6. replacing it with "0.00% (zero basis points)". For the sake of clarity, Bank will no longer pay Royalties to WU for Student Customer Credit Card Accounts.

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.

(SIGNATURES ON NEXT PAGE)

**FIA CARD SERVICES™**

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,

Accepted and agreed:

FIA CARD SERVICES, N.A.

By:



Name:

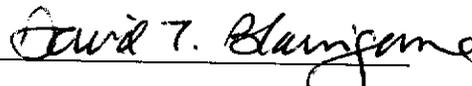
MICHAEL L. PARSONS JR

Title:

SVP

WASHINGTON UNIVERSITY

By:



Name:

DAVID T. BLASINGAME

Title:

EXECUTIVE VICE CHANCELLOR

## **FIA CARD SERVICES®**

Via Overnight Delivery

November 17, 2011

Ms. Laura H. Ponte  
Director of Alumni Relations  
Washington University  
One Brookings Drive  
St. Louis, Missouri 63130-4899

Dear Ms. Ponte:

I am writing to inform you that following a comprehensive review of the Washington University credit card program, FIA Card Services, N.A. ("FIA") has decided not to renew our Affinity Agreement entered into as of June 12, 1997, as the same has been amended ("Agreement").

This letter serves as FIA's written notice of non-renewal of the Agreement, as required by Section 11(f) of the Agreement and paragraph 2 of the letter agreement dated as of July 17, 2009.

The Agreement's expiration date is December 20, 2011.

We have appreciated your endorsement.

Sincerely,



Jared D. Grundish  
Vice President  
FIA Card Services, N.A.

CC:

Pamella Henson  
Associate Vice Chancellor  
One Brookings Drive  
Campus Box 1210  
St. Louis, MO 63130-4899