

## Affinity Group Sponsor Agreement

This agreement ("**Agreement**") governs the operation of the Affinity Card Program (the "**Program**") that Serverside offers to various Affinity Groups, and includes the contractual provisions governing the Program. For the purposes of this Agreement, Serverside refers to **Card Partner, Inc.** a Delaware company with principal place of business at 37 West 20<sup>th</sup> Street, Suite 809, New York, NY 10011. "**You**" or "**your**" refers to the Affinity Group that applies to Serverside to participate in the Program in the manner set forth below and whose application is approved as set forth in this Agreement. By checking the "I agree to the AFFINITY ENTITY AGREEMENT" tick box and clicking on the "SUBMIT" button, you agree that you are bound by the terms and conditions in this agreement.

The Program enables members of your Affinity Group, its supporters and other interested members of the general public to apply for credit cards issued by the Issuer identified below. The Card and other Program marketing materials will include images and logos selected by you that promote your Affinity Group to its Members, and you benefit through the payment by Serverside to you of periodic Rewards as described below. In consideration of the mutual agreements, terms, covenants, representations and warranties in this Agreement and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, you and Serverside each agree as follows:

### 1. **TERM AND TERMINATION**

- 1.1 The provisions of Sections 1, 3.1.1, 5.1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 shall be effective from the Effective Date, but all other provisions, notwithstanding your submission and acceptance of this Agreement, shall not become effective until the following conditions (the "**Conditions of Acceptance**") have been fulfilled:
  - 1.1.1 Issuer, Card Association and Serverside shall each approve you as a participant for the purposes of the Program (at each such entity's sole discretion); and
  - 1.1.2 Issuer and Card Association shall each approve the Content (at each relevant party's sole discretion).
  - 1.1.3 If the Conditions of Acceptance have not been fulfilled or waived in accordance with this Section on or before the expiration of sixty days commencing on the Effective Date, Serverside shall be entitled to terminate this Agreement forthwith upon notice to you, following which this Agreement shall terminate and neither Party shall be under any liability to the other by reason of such termination. After the Conditions of Acceptance have been fulfilled, this Agreement shall continue in full force and effect for the remainder of the period between the Effective Date and the date falling three (3) calendar years thereafter (the "**Initial Term**"), unless renewed or terminated earlier pursuant to the following provisions of this Section 1.
- 1.2 Upon expiration of the Initial Term, this Agreement shall renew for successive one year renewal periods (each, a "**Renewal Period**") on the same terms and conditions, without further notice from one Party to the other, unless terminated by either Party by notice served by the non-renewing Party on the either Party not less than six months prior to the expiration of the Initial Term or the then current Renewal Period (as the case may be).
- 1.3 Either Party may by notice terminate the Agreement if the other Party is in default of any material obligation under this Agreement and either:
  - 1.3.1 the default is capable of remedy and the defaulting Party shall have failed to remedy the default within 30 days of notice to the defaulting Party by the other Party specifying the default and requiring its remedy; or
  - 1.3.2 the default is not capable of remedy.
- 1.4 Serverside shall have the option to terminate this Agreement immediately upon notice to you without cause.

- 1.5 If either Party becomes insolvent in that its liabilities exceed its assets, it is adjudicated insolvent, or files for or is subject to any insolvency, bankruptcy or reorganization proceeding (excluding any involuntary petition dismissed or discharged within sixty days of filing), it makes an assignment for the benefit of creditors prior to bankruptcy, it is unable to meet or has ceased paying its obligations as they generally become due, or it applies for or is subject to receivership, trusteeship, conservatorship or liquidation, then the other Party may immediately terminate this Agreement.
- 1.6 Termination or expiration of this Agreement shall be without prejudice to any rights or obligations which shall have accrued prior to such termination or expiration.
- 1.7 Upon the termination or expiration of this Agreement or upon the termination or expiration of the Issuer Agreement:
- 1.7.1 you acknowledge and agree that Issuer shall continue to own the right, title and interest in and to each relevant Account;
- 1.7.2 Serverside shall make all reasonable efforts to ensure that:
- 1.7.2.1 Issuer notifies each Cardholder that the Issuer Program is no longer associated with you. Such notice will be delivered in a format and manner consistent with industry practice in use at the time of the notice; and
- 1.7.2.2 within 120 days of the termination of the relevant agreement, (i) Issuer reissues each relevant Card with another credit card that does not bear your Brand Features or Content, if Issuer determines to continue the related Account at that time; (ii) Serverside discontinues use of your Brand Features or Content on the Hosted Website and in any marketing materials related to the Program used by Serverside; (iii) Issuer ceases to use your Brand Features or Content on any Issuer Authorized Materials; and
- 1.7.3 you shall immediately:
- 1.7.3.1 cease to promote the Issuer Program;
- 1.7.3.2 cease to use any Issuer Authorized Materials; and
- 1.7.3.3 return or destroy (and in the latter case certify the destruction of all Issuer Authorized Materials previously provided to you by Serverside).
- 1.8 The provisions of Sections 1.6, 1.7, 1.8, 6.4, 7, 8, 9 and 18 shall survive termination of this Agreement.

## 2. REWARDS TO BE PAID TO YOU

- 2.1 The Rewards that Serverside shall ensure that Issuer pays to you under this Agreement shall be as set out below:
- 2.1.1 **Successful Application Reward:** the sum of \$50 for each new Activated Account that results from an Application pursuant to this Agreement, as reported to Serverside by Issuer; and
- 2.1.2 **Transaction Reward:** a sum equivalent to 30 basis points of the Eligible Transaction Volume in respect of each Account that results from an Application pursuant to this Agreement, as reported to Serverside by Issuer.
- 2.2 Serverside shall ensure that the Issuer makes the payments due to you under this Agreement in immediately available funds not later than thirty days following the end of each Quarter via the Automatic Clearing House Network (or such other substitute payment service chosen by Serverside upon notice to you) to such account as may be designated by you.

2.3 For the avoidance of doubt, all amounts referred to in this Agreement shall be paid in US Dollars and are stated inclusive of any applicable taxes.

### 3. **SERVERSIDE OBLIGATIONS**

3.1 Serverside will provide the following services under this Agreement (the “**Affinity Services**”):

3.1.1 process your application to participate in the Program by submitting the Affinity Group Data to Issuer and to the Card Association. If either of them declines to accept your application, or any Affinity Group Data is not approved by either of them, Serverside will not approve your application and will terminate this Agreement as provided in Section 1.1. Serverside will promptly notify you of any such decision by e-mail provided in Section 8 below;

3.1.2 construct, host and maintain the Hosted Website, which will allow your Members to obtain information about the benefits of the Cards;

3.1.3 provide a link from the Hosted Website to Issuer’s website to allow Applicants to apply for Cards;

3.1.4 ensure that Issuer pays to you the Rewards in accordance with Section 2; and

3.1.5 provide you with Issuer Authorized Materials and marketing advice from time to time to help you optimize the success of the Program.

3.2 Serverside has entered into the Issuer Agreement with Issuer pursuant to which Issuer has agreed to underwrite, establish, maintain and service Applications and Accounts in accordance with Issuer’s credit criteria, policies and procedures and Cardholder Agreement, as the same may be amended from time to time at Issuer’s sole discretion, but at all times in accordance with all applicable laws and regulations, and in a manner which is not materially different from or materially less favorable than the manner in which Issuer deals with all similar card applications and accounts.

### 4. **YOUR OBLIGATIONS**

4.1 Subject to Section 4.4, you shall use all reasonable efforts to promote the Issuer Program to each Member, taking into account Serverside’s advice and recommendations in respect thereof, as may from time to time be notified to you by Serverside, and, where reasonably practicable, complying with such advice and recommendations. Provided you are not prohibited from doing so by applicable law, you agree to send a email promoting the Issuer Program to all Members no less than twice a Year for the duration of the Term, Furthermore, you agree to ensure that an image banner advertisement containing a url link to the Online Card Application Page on the Hosted Website (as contained in the Marketing Tool Kit) is displayed on your Affinity homepage web presence for the duration of the Term.

4.2 You acknowledge and agree that Issuer shall own each Account and shall extend credit with respect to each Account, and neither you nor Serverside shall be considered to be a creditor on any Account for any purpose whatsoever, and neither you nor Serverside shall have any right in or obligation with respect to any Account.

4.3 You acknowledge and agree that Serverside may provide to the Issuer and to the Card Association all Brand Features, Content and Affinity Group Data during the Term.

4.4 You agree that you will only use Issuer Authorized Materials in connection with the promotion, advertisement or marketing of the Issuer Program. You will make no modifications to the Issuer Authorized Materials except as are expressly approved by Serverside.

4.5 You acknowledge and agree that, subject to complying with any applicable privacy laws and regulations, the Issuer may contact Members with marketing materials and other information relating to the Issuer’s other products.

- 4.6 You warrant and represent that the Brand Features and Content do not include any of the following material:
- 4.6.1 Visa International competitor's trade names, logos, slogans or other identifying indicia (e.g. MasterCard, American Express, etc.);
  - 4.6.2 Political Statements (e.g. Neo-Nazi, Pro-Life, etc.);
  - 4.6.3 Advertising or promotional material other than that for which you own or are licensed to use all applicable intellectual property rights (including for the purposes of this Agreement);
  - 4.6.4 branded products, other than those for which you own or are licensed to use all applicable intellectual property rights (including for the purposes of this Agreement);
  - 4.6.5 any copyright image, other than one which you own or are licensed to use (including for the purposes of this Agreement);
  - 4.6.6 any trade mark, other than one which you own or are licensed to use (including for the purposes of this Agreement);
  - 4.6.7 foreign or U.S. celebrities that are recognizable by the average person in the United States;
  - 4.6.8 phone Numbers and URL addresses;
  - 4.6.9 socially Unacceptable Groups (e.g. gangs, supremacy, etc.);
  - 4.6.10 provocative or Sexual content;
  - 4.6.11 violent content;
  - 4.6.12 profane or obscene content; or
  - 4.6.13 content making reference to the Olympic Games or associated events.

## 5. **INTELLECTUAL PROPERTY RIGHTS**

- 5.1 You grant each of Serverside, Issuer and the Card Association an irrevocable, non-transferable, non-exclusive, royalty-free, world-wide, license for the Term and for the period of 120 days following the termination or expiration thereof, to use the Affinity Group Data for the purpose of procuring the Application for, the manufacture of, and issuing and maintaining each relevant Card, for the inclusion of such Affinity Group Data on the Hosted Website, in the Issuer Approved Marketing Materials and other marketing materials specifically approved by Serverside, and as otherwise contemplated in connection with the Program.
- 5.2 You warrant to each of Serverside, Issuer and the Card Association that you own or are licensed to use the relevant Intellectual Property Rights in all Affinity Group Data for the purposes of procuring the Application for, the manufacture of, and issuing and maintaining each relevant Card, for the inclusion of such Affinity Group Data on the Hosted Website, in the Issuer Approved Marketing Materials and other marketing materials specifically approved by Serverside, and as otherwise contemplated in connection with the Program.
- 5.3 Serverside warrants that it has obtained, through the Issuer Agreement, the grant by Issuer to Affinity Groups that have been approved for inclusion in the Program of an revocable, non-transferable, non-exclusive, royalty-free, world-wide, license for the Term to use Issuer's trade marks (whether registered or unregistered), service marks, logos and other distinctive brand features including their look, form, feel and substance strictly and solely for the purposes of marketing and promoting the Issuer Program using Issuer Authorized Materials and other marketing materials specifically approved by Serverside in accordance with this Agreement, and for no other purpose.

5.4 Nothing in this Agreement shall confer on either Party any right of ownership in the Intellectual Property Rights owned by Issuer or the other party (or its licensor) or any other party.

## 6. **WARRANTIES AND INDEMNITIES**

6.1 Serverside warrants to you that:

6.1.1 it will perform the Affinity Services with reasonable skill, care and diligence; and

6.1.2 in providing the Affinity Services it will comply with all applicable statutes, regulations and industry codes of conduct and practice as mandated by any Relevant Authority.

6.2 You warrant to Serverside that you shall:

6.2.1 perform your obligations under this Agreement with reasonable skill, care and diligence;

6.2.2 perform your obligations under this Agreement in compliance with all applicable statutes and regulations and industry codes of conduct and practice as mandated by any Relevant Authority; and

6.2.3 not share, recompile, decompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, any software or hardware contained in the Hosted Website or the Affinity Services.

6.3 Each Party warrants to the other Party that:

6.3.1 it is duly organized, validly existing and in good standing under applicable laws;

6.3.2 save as described in Section 1.1, no consent, approval or authorization from any third party is required in connection with its execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect as of the Effective Date;

6.3.3 it has the right, power and authority to perform its obligations under, and to enter into, this Agreement; and

6.3.4 it shall co-operate with the other party in the performance of this Agreement at all times in good faith.

6.4 You shall indemnify, hold harmless, and defend Serverside, the Issuer and the Card Association, each of their Affiliates, and their personnel from and against any and all Losses incurred by any of them in connection with, or which arise out of, or result from, or are based upon:

6.4.1 any grossly negligent or willful acts or omissions by you related to the Accounts or to this Agreement;

6.4.2 an irremediable breach by you of this Agreement, or failure to remedy a remediable such breach within 30 days of notice from Serverside so to do;

6.4.3 any breach of the warranty in Section 5.2; or

6.4.4 any use by you, your Affiliates, agents or representatives of any Issuer Intellectual Property Rights or Issuer Authorized Materials other than in accordance with the terms and conditions of this Agreement

## 7. **LIMITATIONS OF LIABILITY**

- 7.1 Subject to Section 7.3 and without prejudice to Section 1, the liability of Serverside to you for any Loss suffered by the you arising out of or in connection with this Agreement and caused or contributed to by the Serverside (including, without limitation, by breach of contract or negligence) shall not in any circumstances exceed, in aggregate, US\$150,000.
- 7.2 Notwithstanding any other provision of this Agreement, but subject always to Section 7.3, Serverside shall not under any circumstances be liable to you or any other person for:
- 7.2.1 any Loss which is a loss of profit, data, revenue, use, goodwill, reputation, anticipated savings, market or business and/or non-pecuniary in nature (in each case whether direct, indirect, special, consequential, or otherwise), in each case whatsoever and howsoever caused including, without limitation, by breach of contract or negligence; or
- 7.2.2 any Loss to the extent that it results from any failure or delay by you or any of your personnel to perform your obligations under this Agreement.
- 7.3 Notwithstanding any other provision of this Agreement, nothing in this Agreement shall exclude the liability of either Party for Loss resulting from willful default, a breach of Sections 9.1 to 9.3 (inclusive) (Confidentiality), or fraud or death or personal injury resulting from its own negligence, or for any other liability which may not by law be excluded or restricted.
- 7.4 TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ALL CONDITIONS, TERMS, REPRESENTATIONS (OTHER THAN FRAUDULENT REPRESENTATIONS) AND WARRANTIES, WHETHER IMPOSED BY STATUTE OR BY OPERATION OF LAW OR OTHERWISE, THAT ARE NOT EXPRESSLY STATED HEREIN, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 7.5 Each provision in this Section 7 shall be construed separately and shall continue and survive even if for any reason one or other of these provisions is held inapplicable or unenforceable in any circumstances.

## 8. **NOTICES**

- 8.1 Any notice given under this Agreement shall be in writing and shall be served by hand, delivered or sent by prepaid recorded or special delivery post or prepaid international recorded airmail, or fax to the address and for the attention of the relevant Party, in the case of Serverside as set out in Section 8.2, and in your case, as set out in your application to participate in the Program (or as otherwise notified by that Party under this Section). Any such notice shall be deemed to have been received:
- 8.1.1 if hand delivered or sent by prepaid recorded or special delivery post or prepaid international recorded airmail, at the time of delivery;
- 8.1.2 in the case of fax, at the time of receipt according to a report produced by the sending machine if that time is during business hours in the place of receipt (or at 9.00 am on the next business day if the time is not during business hours in that place); or
- 8.1.3 in the case of any e-mail sent by Serverside to you, immediately upon such notice being dispatched from Serverside's e-mail servers, provided that no error notification is received from Serverside in respect of such notice within six hours of dispatch.
- 8.2 The addresses and fax numbers of Serverside for the purposes of Section 8.1 are:

Card Partner, Inc.  
37 West 20<sup>th</sup> Street  
Suite 809  
New York  
NY 10011

Fax number: 646-390-6723

## 9. CONFIDENTIALITY, PRIVACY, PUBLICITY AND REFERENCES

9.1 Each of the parties (the "**Recipient Party**") shall keep confidential all information concerning the business, finances, technology, affairs, clients, marketing plans of the other party (the "**Disclosing Party**") and other information which is identified as such or is confidential by its nature (including the terms of this Agreement) ("**Confidential Information**"), and shall not use Confidential Information for any purpose other than those contemplated under this Agreement.

9.2 The provisions of Section 9.1 shall not apply to information that:

9.2.1 has come into the public domain other than by breach of this Section 9 or any other duty of confidence;

9.2.2 is obtained by the Recipient Party from a third party without breach of this Section 9 or any other duty of confidence;

9.2.3 is known by the Recipient Party, in connection with the Disclosing Party, and which has been disclosed to the Recipient Party by a third party, other than a Subsidiary or Holding Company of the Recipient Party, not in breach of any duty of confidence;

9.2.4 is required by a Relevant Authority pursuant to laws or regulations binding on the Recipient Party receiving such information, provided that the Disclosing Party is (if it is lawful to do so) notified in advance that such disclosure is to be made;

9.2.5 is disclosed to the Recipient Party's professional advisors for the purpose of obtaining professional advice (subject to obtaining a satisfactory commitment from that party in respect of confidentiality and non-use);

9.2.6 is disclosed to the Recipient Party's or the Recipient Party's Affiliate's own personnel under conditions of confidentiality and non-use and then only to the extent required for the proper performance of this Agreement; or

9.2.7 is in the possession of the Recipient Party at the time the Confidential Information was disclosed to it by the Disclosing Party or which is independently developed without reference to any Confidential Information of the Disclosing Party.

9.3 Except as permitted by Section 5 of this Agreement, neither Party shall use the name or marks of the other in any publicity release, advertising or publicly displayed or distributed materials without securing the prior written consent of the Party whose name is to be used. Notwithstanding the foregoing, Serverside reserves the right to refer to you in Serverside's customer list for the duration of the Term.

## 10. FORCE MAJEURE

10.1 Neither Party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause beyond its reasonable control including (without limitation) any of the following: act of God, governmental act, terrorist act, war, fire, flood, explosion or civil commotion (each, an "**Event of Force Majeure**").

10.2 The Party affected by the Event of Force Majeure shall make all reasonable efforts to mitigate the impact of any Event of Force Majeure and to recommence performance of its obligations under this Agreement as soon as is reasonably practicable. If the affected Party is unable to perform its obligations by reason of the Event of Force Majeure for more than eight weeks, the non-defaulting Party may terminate this Agreement immediately by serving notice on the other to that effect in which event neither Party shall be liable to the other by reason of such termination.

11. **AMENDMENT**

11.1 Any amendment, modification, variation or supplement to this Agreement must be made in writing and signed by an authorized signatory of each Party.

12. **ASSIGNMENT AND SUBCONTRACTING**

12.1 You may not assign, transfer or otherwise make over any part of this Agreement without Serverside's prior written consent.

12.2 Serverside shall be entitled to sub-contract any of the Affinity Services under this Agreement. Serverside shall not by virtue of entering into any sub-contract avoid liability for any acts and defaults of its agents and sub-contractors for which it would otherwise have been liable.

13. **INDEPENDENT PARTIES**

13.1 Serverside and you (and for the avoidance of doubt, each of the Issuer and the Card Association) are not agents, representatives, partners or employees of the other, and neither Party will have the power to obligate or bind the other, or any other party (including, for the avoidance of doubt, the Issuer) in any manner by virtue of this Agreement, except as otherwise expressly provided by this Agreement.

14. **DISPUTE RESOLUTION**

14.1 Any dispute between the Parties arising under or in connection with this Agreement or any breach of this Agreement (a "**Dispute**") shall be resolved solely in accordance with the procedures in this Section 14.

14.2 Any Dispute under this Agreement whether based on contract, tort, common law, equity, statute, regulation, order or otherwise, shall be resolved as follows:

14.2.1 upon written request of either Party, the Parties will each appoint a designated representative whose task it will be to meet for the purpose of endeavoring to resolve such Dispute;

14.2.2 the designated representatives shall meet as often as the Parties reasonably deem necessary to discuss the problem in an effort to resolve the Dispute without the necessity of any formal proceeding; and

14.2.3 formal proceedings for the resolution of a Dispute may not be commenced until the earlier of:

(a) the designated representatives concluding in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or

(b) the expiration of the thirty (30) day period immediately following the initial request to negotiate the Dispute;

provided, however, that this Section 14.2 will not be construed to prevent a Party from instituting formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors or to seek temporary or preliminary injunctive relief pursuant to Section 14.10.

14.3 If the Parties are unable to resolve any Dispute as contemplated by Section 14.2, such Dispute shall be submitted to non-binding mediation at the election of either Party (the "**Disputing Party**").

14.4 To initiate the mediation, the Disputing Party shall notify the other Party in writing (the "**Mediation Demand**"), which shall:

14.4.1 describe in reasonable detail the nature of the Dispute;

14.4.2 state the amount of the claim; and



- 14.4.3 specify the requested relief.
- 14.5 Within fifteen days after the other Party's receipt of the Mediation Demand, such other Party shall file, and serve on the Disputing Party, a written statement:
- 14.5.1 answering the claims set forth in the Mediation Demand and including any affirmative defenses of such Party; and
- 14.5.2 asserting any counterclaim, which shall:
- (a) describe in reasonable detail the nature of the Dispute relating to the counterclaim;
  - (b) state the amount of the counterclaim, and
  - (c) specify the requested relief.
- 14.6 Promptly, but in any event within fifteen days of receipt by the Disputing Party of the written statement referred to in Section 14.5, the Parties will utilize a neutral mediator who satisfies the following conditions:
- 14.6.1 is appointed by the American Arbitration Association ("**AAA**") from among its list of neutral mediators;
- 14.6.2 has been licensed to practice law in the U.S. for at least ten years;
- 14.6.3 is not then an employee of either Party or an employee of an Affiliate of either Party;
- 14.6.4 is experienced in representing clients in connection with commercial agreements; and
- 14.6.5 has no past or present relationships with the Parties or their counsel, except as otherwise disclosed in writing to and approved by the Parties.
- 14.7 The mediation hearing shall be held in New York City, New York or at such other location as the Parties may mutually agree. The mediation proceedings and all testimony, filings, documents and information relating to or presented during the mediation proceedings' shall be deemed to be information subject to the confidentiality provisions of this Agreement. The mediator will have no power or authority to relieve the Parties from their agreement hereunder to mediate or otherwise to amend or disregard any provision of this Agreement, including, without limitation, the provisions of this Section 14.
- 14.8 Should a mediator refuse or be unable to proceed with Mediation proceedings as called for by this Section 14, the mediator shall be replaced by mutual agreement of the Parties.
- 14.9 Each Party will bear a pro rata share of all fees, costs and expenses of the mediation, and notwithstanding any law to the contrary, each Party will bear all the fees, costs and expenses of its own attorneys, experts and witnesses.
- 14.10 Nothing in Sections 14.2 to 14.9 (inclusive) shall be construed to prevent any Party from seeking from a court a temporary restraining order or other temporary or preliminary relief pending final resolution of a Dispute.
15. **DEFINITIONS AND INTERPRETATION**
- 15.1 In this Agreement (except where the context otherwise requires) the words and expressions beginning with capital letters shall have the meanings given to them in the Glossary at the end of this Agreement.
- 15.2 In this Agreement (except where the context otherwise requires):

15.2.1 the Section headings are included for convenience only and shall not affect the interpretation of this Agreement;

15.2.2 use of the singular includes the plural and vice versa and shall not limit the sense of the words preceding those terms.

15.3 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any references to this Agreement include the Schedules. In any conflict between these general terms and any Schedule, these general terms shall take precedence.

16. **ENTIRE AGREEMENT**

16.1 This Agreement, and the documents referred to in it, constitute the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.

16.2 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty, understanding, promise or assurance (whether negligently or innocently made) of any person (whether Party to this Agreement or not) other than as expressly set out in this Agreement.

16.3 Nothing in this Agreement shall operate to limit or exclude any liability for fraud.

17. **THIRD PARTY RIGHTS**

17.1 The parties confirm that this Agreement is for the benefit of the contracting parties only and shall not confer any benefit on, or be enforceable by a third party.

18. **LAW AND JURISDICTION**

18.1 This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the laws of the United States of America and State of New York, regardless of the laws that might otherwise govern under applicable choice-of-law principles.

## SCHEDULE 1

### GLOSSARY

<b>"Account"</b>	means each credit card account opened pursuant to an Application processed and approved by Issuer;
<b>"Activated Account"</b>	means an Account which has been used by the Cardholder for any transaction within 90 days of the Application Form being approved, including but not limited to, a retail purchase, cash advance or balance transfer;
<b>"Affiliate"</b>	means, in relation to you or Serverside, that company and any holding company of that company or a subsidiary company of that company or of such holding company;
<b>"Affinity Group"</b>	means each entity that applies to participate in the Program in the manner set forth in this Agreement.
<b>"Affinity Group Data"</b>	means data submitted by you to Serverside during the Term, including the Content and the Brand Features;
<b>"Agreement"</b>	means this Agreement, including this Glossary;
<b>"Applicant"</b>	means a person who makes an Application for a Card, whether through a link available on the Hosted Website or in response to a solicitation by you, by Serverside or through other Issuer Authorized Materials provided by you;
<b>"Application"</b>	means a request for a Card directed to Issuer pursuant to this Agreement;
<b>"Brand Features"</b>	means the trade marks (whether registered or unregistered), service marks, logos and other distinctive brand features that you submit to Serverside for use with the Program, including their look, form, feel and substance;
<b>"Business Day"</b>	means any day which is not a Saturday, a Sunday or a bank or public holiday in New York;
<b>"Business Hours"</b>	means 9:00 am to 5:30 pm EST on Business Days;
<b>"Card"</b>	means, a credit card issued by Issuer and made available to a Cardholder which is branded with your Brand Features and/or Content;
<b>"Card Association"</b>	means Visa and/or any other card association through which credit card issuers may issue credit cards, as Serverside shall from time to time notify you during the Term;
<b>"Cardholder"</b>	means an Applicant in whose name an Account is established, including a joint accountholder or guarantor or authorized user thereof;
<b>"Cardholder Agreement"</b>	means an agreement between Issuer and a Cardholder for an extension of credit under an Account, and any amendments thereto and renewals thereof;
<b>"Conditions of Acceptance"</b>	has the meaning set forth in Section 1.1;

<b>"Content"</b>	means any text, image or logo submitted by you to Serverside for the purpose of being used on the Card, the Issuer Authorized Materials, other approved marketing materials, or the Hosted Website, as contemplated by this Agreement;
<b>"Due Date"</b>	the date falling 30 days after the end of a Quarter or, if such date is not a Business Day, the next following Business Day;
<b>"Effective Date"</b>	means [Generated date] [the date you accept the terms and conditions of this Agreement by clicking the [I Accept] button], subject to the provisions of Section 1.1 regarding Conditions of Acceptance;
<b>"Eligible Transaction Volume"</b>	means all retail purchase transaction dollar volume generated using an Account (excluding transactions that (1) relate to refunds, returns and / or unauthorized transactions, and/or (2) are cash equivalent transactions (including, without limitation, cash advances, the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips), as reported to Serverside by Issuer; and/or (3) constitute the redemption by Cardholder of rewards earned from Issuer for Card use;
<b>"Escalation Procedure"</b>	means the procedure set out in Section 14;
<b>"Event of Force Majeure"</b>	has the meaning given to it in Section 10.1;
<b>"Hosted Website"</b>	means the website to be constructed, maintained and made available to you and potential Applicants by Serverside in connection with the operation of the Issuer Program;
<b>"Initial Term"</b>	means the period between the Effective Date and the date falling three (3) calendar years thereafter;
<b>"Intellectual Property Rights"</b>	copyright, design rights, rights in databases, moral rights, trade marks, service marks, trade and business names, patents, rights in inventions and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world;
<b>"Issuer"</b>	means UMB Bank N.A., a national banking association whose principal office is at 1010 Grand Boulevard, Kansas City, MO 64106, or such other credit card issuer as may subsequently be substituted as issuer by Serverside upon notice to you and the reissuance of Cards to Cardholders from time to time during the Term;
<b>"Issuer Agreement"</b>	an agreement between Serverside and Issuer (as amended from time to time by agreement between the parties to it) under which, among other things, the Issuer agrees to provide the Issuer Program;
<b>"Issuer Authorized Materials"</b>	marketing materials relating to the Issuer Program which shall be provided to you by Serverside from time to time;
<b>"Issuer Program"</b>	means the combined features, products and services that Issuer offers and provides with Cards, including services incidental to Accounts, such as (but not limited to) balance transfers, cash activation offers, and other Card features;
<b>"Loss"</b>	any damages, loss, costs, claims or expenses (including without prejudice to Section 7.2, loss of profit, data, revenue, use, goodwill, reputation, anticipated savings, market or business (whether direct, indirect, special, consequential, pecuniary, non-pecuniary or otherwise) whatsoever and

howsoever caused and any indirect special or consequential damages, loss, costs, claims or expenses of any kind);

<b>"Member"</b>	means members of your Affinity Group, its supporters and other interested members of the general public;
<b>"Party"</b>	means you or Serverside, and <b>"Parties"</b> shall mean both of them;
<b>"personnel"</b>	means the officers, directors, and employees of the relevant party;
<b>"Privacy Rules"</b>	means Title V of the Gramm-Leach Bliley Act 1999 and its implementing regulations applicable to national banks, the Interagency Guidelines Establishing Standards for Safeguarding Customer Information and state laws regarding the privacy and security of consumers' personal information;
<b>"Quarter"</b>	each period of three calendar months ending on 31 March, 30 June, 30 September and 31 December in each Year;
<b>"Relevant Authority"</b>	means any agency having authority to regulate the Issuer Program;
<b>"Renewal Period"</b>	has the meaning set forth in Section 1.2 of this Agreement.
<b>"Reward"</b>	means the sums payable by the Issuer to you under this Agreement, as more particularly described in Section 2;
<b>"Term"</b>	means the Initial Term or any Renewal Period, as more further set forth in Section 1 of this Agreement; and
<b>"Year"</b>	means each calendar year, commencing on the Effective Date and each anniversary thereof.