

**SECOND AMENDED AND RESTATED
Affinity Agreement
The Ex-Students Association of The University of Texas**

This Agreement ("**Agreement**") is entered into as of this 1st day of **July, 2019** (the "**Effective Date**") by and between **Bank of America, N.A.** (as successor to merger with FIA Card Services, Inc.), a national banking association having an office in Wilmington, Delaware ("**Bank**"), and **The Ex-Students Association of The University of Texas**, a corporation having its principal place of business in Austin, Texas ("**ESAUT**"), for themselves and their respective successors and assigns. Bank and ESAUT are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**."

WHEREAS, ESAUT and Bank are parties to that certain Amended and Restated Affinity Agreement dated January 1, 2013, as the same has been amended ("**Previous Agreement**"), pursuant to which Bank provides certain financial services to certain persons included in the marketing lists provided to Bank by or on behalf of ESAUT; and

WHEREAS, ESAUT and Bank mutually desire to amend and restate the Previous Agreement in its entirety as of the Effective Date in accordance with the terms and conditions set forth in this Agreement.

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

1. **DEFINITIONS AND RULES OF INTERPRETATION**

For the purposes of this Agreement, capitalized terms have the meanings set forth in Exhibit 1, whether used in the plural or singular, in any tense or part of speech, and regardless of gender, and the Rules of Interpretation therein shall apply to this Agreement. Other terms defined herein have the meanings given to them where they are defined.

2. **RIGHTS AND RESPONSIBILITIES OF ESAUT**

- (a) (i) ESAUT agrees that during the Term it will endorse the Program exclusively and that neither ESAUT nor any ESAUT Affiliate shall, by itself or in conjunction with others, directly or indirectly: (i) sponsor, advertise, aid, develop, market, solicit proposals for programs offering, or discuss with any organization (other than Bank) the providing of, any Financial Service Products of any entity other than Bank; (ii) license, allow others to license, or use or allow to exist the use by others of the ESAUT Trademarks in relation to or for promoting any Financial Service Products of any entity other than Bank; and (iii) sell, rent or otherwise make available or allow others to sell, rent or otherwise make available any of its marketing lists, mailing lists, or information about any current or potential Members in relation to or for promoting any Financial Service Products of any entity other than Bank. In addition, if ESAUT or any ESAUT Affiliate sells any product or service, in connection with such sales, ESAUT shall not, and shall cause ESAUT Affiliates not to, favor any payment product or method of payment over any payment product or method of payment offered under the Program; provided that this shall not prohibit ESAUT from selling any product or service on a cash-only basis from time to time at cash-only bars, at tailgating parties, cash-only merchandise sales and other limited situations. Notwithstanding anything else in this Agreement to the contrary, ESAUT may accept (a) print or on-line (including Wi-Fi transmitted) advertising from any financial institution for any products or services that do not compete with the Financial Service Products or (b) the underwriting, funding, or sponsorship of a scholarship by

another financial institution, which ESAUT shall be free to endorse and advertise any such underwriting, funding, or sponsorship of any such scholarship.

(ii) Notwithstanding the foregoing, during the one hundred eighty (180) days preceding the end of the Term of this Agreement, as set forth in Section 8 of this Agreement or as subsequently modified by written agreement of the parties, ESAUT may solicit proposals for programs offering, or discuss with any organization (other than Bank) the providing of, any Financial Service Products of any entity other than Bank; provided, however, ESAUT agrees that no agreement(s) between ESAUT or any ESAUT Affiliate and any entity other than Bank for the providing of any Financial Service Product shall have an effective date that is prior to the end of the Term.

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

(c) ESAUT authorizes Bank to solicit Members by mail, direct promotion, internet, advertisements, banking centers, ATMs, telephone or any other means for participation in the Program. In addition, Bank may solicit Members for participation in the Program by e-mail, provided that Bank obtains the Member's email address from a source other than ESAUT. ESAUT shall be responsible to ensure that its Marketing Lists do not contain students of University. Bank shall not be liable for marketing University students for participation in the Program using Member information obtained from ESAUT's Marketing Lists.

(d) ESAUT shall have the right of prior approval of the depiction of an ESAUT Trademark in any Program advertising and solicitation materials to be used by Bank that depict an ESAUT Trademark. In the event that Bank incurs a cost because of a change in the ESAUT Trademarks (e.g., the cost of reissuing new credit cards), Bank may deduct such costs from any Royalties due ESAUT. In the event such costs exceed Royalties then due ESAUT, if requested by Bank, ESAUT will promptly reimburse Bank for all such costs. Notwithstanding the foregoing, ESAUT shall not be responsible for Bank's costs resulting from a change in any ESAUT Trademark if ESAUT: (i) permits Bank to exhaust its existing inventories of applications, marketing material, credit cards, debit cards, checks and other Program material bearing the old ESAUT Trademark; and (ii) does not request or require Bank to issue replacement credit cards and/or debit cards and/or checks that bear the new or amended ESAUT Trademark.

(e) At least once quarterly and within thirty (30) days of execution of this Agreement, ESAUT shall use commercially reasonable efforts to provide Bank with its entire and complete updated Marketing List free of any charge; provided, however, that ESAUT shall not include in any Marketing List the name and/or related information regarding any Member who has expressly requested that ESAUT not provide his/her personal information to third parties or who is under the age of eighteen at the time the information was collected. If ESAUT or its agents charge Bank to provide an initial Marketing List or an update to the Marketing List, Bank may deduct such charges from any payments (including Royalties) then due ESAUT. ESAUT shall provide the first Marketing List, containing the required information for at least eighty-two thousand (82,000) non-duplicate Member names, as soon as possible but no later than 30 days after ESAUT's execution of this Agreement. With each delivery to Bank, ESAUT represents and warrants that the Marketing List has been prepared in accordance with Applicable Law, including the ECOA and the GLBA.

(f) ESAUT shall, and shall cause any ESAUT Affiliates to, only provide information to or otherwise communicate (including chat and social media) with Members or potential Members about the Program with Bank's prior written approval, except for current advertising and solicitation materials provided by Bank to ESAUT or as required by law. Notwithstanding the above, ESAUT may respond to individual inquiries about the Program from its Members on an individual basis, provided that the responses, after

good faith inquiry by ESAUT, are reasonably believed by ESAUT to be accurate and consistent with the then-current materials provided by Bank to ESAUT. Any correspondence received by ESAUT that is intended for Bank (e.g., applications, payments, billing inquiries) shall be forwarded to the Bank account executive via overnight courier within three (3) business days of receipt. All reasonable overnight courier expenses incurred by ESAUT shall be paid by Bank. For any inquiries or requests received by ESAUT that are intended for Bank (e.g. general questions, name/address changes, deceased notifications), ESAUT will inform the person making the inquiry to contact the Bank.

(g) (i) ESAUT hereby grants Bank and its Affiliates a limited, exclusive license to use the ESAUT Trademarks solely in connection with the Program and, subject ESAUT's right of approval set forth in Section 2(d), on or in conjunction with all Financial Service Products. This license transfers to the assignee of this Agreement. This license shall remain in effect for the duration of this Agreement. Any use of the ESAUT Trademarks must be in accordance with ESAUT's brand book (as modified from time to time, the "**Brand Book**"). ESAUT shall promptly provide a copy of the current Brand Book upon request and all ESAUT Trademark production materials (e.g., camera ready art) required by Bank for the Program as soon as possible but no later than thirty (30) days after ESAUT's execution of this Agreement. If ESAUT modifies, revises, or replaces any ESAUT Trademark, Schedule C is hereby amended without any further action required by the parties to include such successor and/or replacement trademark. Within a reasonable time after such modification, revision, or replacement, ESAUT shall provide Bank with an updated Brand Book. To the extent that ESAUT approves for use in connection with the Program any other ESAUT Trademark not set forth on Schedule C as of the Effective Date of this Agreement, Schedule C shall be deemed amended to include such ESAUT Trademark without any further action of the parties. This license shall apply to the ESAUT Trademarks, notwithstanding the transfer of such ESAUT Trademarks by operation of law or otherwise to any permitted successor, corporation, organization, or individual. Nothing stated in this Agreement prohibits ESAUT from granting to other persons a license to use the ESAUT Trademarks in conjunction with the providing of any other service or product, except for any Financial Service Products.

(ii) As of the Effective Date and throughout the Term, ESAUT represents, warrants and covenants to Bank it has the exclusive right to grant such license to the Bank for use as contemplated hereby. ESAUT retains all right, title and interest in the ESAUT Trademarks and Bank does not have any ownership interest in or to any ESAUT Trademark. Bank shall not (and shall cause its Affiliates and subcontractors and its and their respective Representatives not to) register or attempt to register any ESAUT Trademark. This Subsection (2)(g)(ii) shall survive the expiration or earlier termination of this Agreement.

(h) All Program Trademarks, with the exception of Program Trademarks that consist of or contain an ESAUT Trademark, with or without other elements, shall belong exclusively to Bank. ESAUT may not (and shall cause its subcontractors and its and their respective Representatives not to) use any Program Trademark, except to promote the Program or any goods or services offered by Bank through the Program and only to the extent consistent with this Agreement. ESAUT shall not (and shall cause its subcontractors and its and their respective Representatives not to) register or attempt to register any Program Trademark. The provisions of this Subsection 2(h) shall survive the expiration or earlier termination of this Agreement.

(i) ESAUT acknowledges that Bank has directed ESAUT's attention to 12 C.F.R. §1026.57(b) and ESAUT has reviewed that regulation with its legal counsel.

(j) During the Term and for 2 years thereafter, upon prior written notice, ESAUT shall permit Bank and shall cause its subcontractors (and its and their respective Representatives) to permit (and cooperate with) Bank's (including Bank's Representatives) audit, inspection, monitoring, testing, and review of ESAUT with respect to ESAUT's policies, procedures and controls in connection and compliance with Applicable Laws and records as they relate to the Program, Information security, ESAUT Activities and performance of ESAUT's duties and obligations hereunder. Bank shall have the right to determine the scope of such audits, tests or inspections. To avoid undue disruption of ESAUT's operations, the Parties shall mutually determine the date, time, location and duration of the audit, tests or inspection, provided such date is within ten (10) business days of Bank's written notice. ESAUT shall promptly remediate any deficiencies found with respect to compliance with Applicable Laws and this Agreement as a result of such audits, tests or inspections. ESAUT's failure or refusal to (1) cooperate or to (2) promptly remediate any such deficiencies within thirty (30) days of written notice to ESAUT shall be deemed a material breach by ESAUT of this Agreement. The provisions of this Subsection 2(j) shall survive the expiration or earlier termination of the Term for a period of two years.

3. RIGHTS AND RESPONSIBILITIES OF BANK

(a) Bank shall design, develop, maintain, and administer the Program for the Members in material compliance with all Applicable Laws.

(b) Bank shall design all advertising, solicitation, and promotional materials used in the Program except for materials used in any ESAUT Marketing Effort. Bank reserves the right of prior written approval of all materials concerning or related to the Program that may be developed by or on behalf of ESAUT.

(c) Bank shall bear all costs of producing and mailing materials for the Program except for materials used in any ESAUT Marketing Effort.

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

(e) Bank shall use the Marketing Lists provided pursuant to this Agreement only in a manner consistent with this Agreement and shall not permit persons or entities handling the Marketing Lists to use them for any other purpose. Bank shall have the sole right to designate Members on these Marketing Lists to whom promotional material shall or shall not be sent. ESAUT owns all right, title and interest in these Marketing Lists. However, Bank may maintain separately and shall own all information that it obtains solely as a result of an account relationship or an application for an account relationship. This information becomes a part of Bank's files and shall not be subject to this Agreement; provided however that Bank shall not use this separate information in a manner that would imply an endorsement by ESAUT.

(f) Subject to Applicable Law, Bank has the right to place ESAUT Trademarks on gifts for individuals completing applications and on other premium items, including t-shirts, hats, "bobbleheads," or other items suitable in Bank's judgment for the solicitation of Credit Card Account applications. ESAUT will have approval rights of the use and appearance of the ESAUT Trademarks used on such materials pursuant to Subsection 2(d), but grants Bank the right to use approved materials at Bank's discretion subject to the terms of this Agreement. Bank will not be required to pay any third party (e.g., any producer, licensor(ee), or manufacturer of such gifts and premiums) royalties or other compensation otherwise due directly or indirectly to or on behalf of ESAUT or an ESAUT Affiliate for such gifts or premiums. ESAUT waives such payments from any third party(ies) (and/or agrees to cause the recipient(s) of such payments to waive such payments), and will take (and/or will cause the recipient(s) of such payments to take) all actions to give effect to this waiver. If a third party should refuse to reduce the price to Bank for such gifts or

premiums (or otherwise prevent the realization of this benefit by Bank) then Bank may deduct such amount(s) from Royalties and/or Advance payments.

(g) Notwithstanding anything contained in this Agreement to the contrary, and subject to the prior written approval of ESAUT, Bank may market any financial service products or services that Bank or any Bank Affiliate offers (e.g., credit cards and deposit products, collectively "**Bank Products**") contemporaneously with the promotion of Deposits and that such Bank Products are not subject to this Agreement. ESAUT's approval of the marketing of any Bank Product shall not be approval for any future marketing of any other Bank Product. However, when using ESAUT's Marketing Lists for Deposits, Bank agrees that it shall not market Bank Products (excluding Deposits Offers, as defined below), in direct mail copy, in an e-mail or an outbound telemarketing solicitation, unless ESAUT consents to Bank's use of the Marketing Lists for such purposes. ESAUT's consent of Bank's use of the Marketing List for such purposes shall not be consent for any future use of the Marketing List for other purposes. "**Deposits Offers**" means any and all Deposits benefits and features and any and all other products and services that relate to or have a connection with Deposits (e.g., Online Banking and \$0 Trade). Bank may maintain separately all information it obtains as a result of an account application for, and/or an account relationship in connection with, Deposits or a Bank Product. All such information becomes a part of Bank's own files and shall not be subject to the Agreement.

4. REPRESENTATIONS AND WARRANTIES

- (a) ESAUT and Bank each represents and warrants to the other Party that as of the Effective Date:
- (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, release, approval, or authorization from any third party is required in connection with the negotiation, execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect; and,
 - (v) The execution, delivery and performance of this Agreement by such Party shall not constitute a violation of Applicable Law.
- (b) As of the Effective Date, throughout the Term and during the period that ESAUT Trademarks remain in use hereunder, ESAUT represents and warrants to Bank that ESAUT has the right and power to license ESAUT Trademarks to Bank for use as contemplated by this Agreement and to provide the Marketing List(s) to Bank for the promotion of the Program. ESAUT shall indemnify, defend and hold harmless Bank, its Affiliates (including their respective Representatives) and all of their successors and assigns, from and against all third-party liability, causes of action, and claims and shall reimburse Bank's costs, fees and expenses in connection therewith (including reasonable attorneys' fees and court expenses) (collectively, "**Claims**") arising from the license granted herein, from Bank's use of the ESAUT Trademarks in reliance thereon or from the use of any Marketing List(s) by Bank for the Program, provided that, in each instance, Bank has complied with the terms of this Agreement that govern the use of the

ESAUT Trademarks or Marketing Lists. Each Party shall promptly notify the other Party upon learning of any claims or complaints relating to the license or the use of any ESAUT Trademarks or Marketing Lists. The provisions of this Subsection 4(b) shall survive the expiration or earlier termination of this Agreement.

(c) Each Party (the “**Indemnifying Party**”) shall indemnify, defend and hold harmless the other Party, and each of its officers, directors, agents, contractors, subcontractors, licensees and employees (collectively referred to as the “**Indemnified Party**”), against and from any and all third-party Claims, arising out of or in any way connected with (a) any breach by the Indemnifying Party (including a breach by any of its Representatives) of any representations or warranties or of the terms and conditions of this Agreement or the gross negligence or willful misconduct of the Indemnifying Party (including its Representatives). The reimbursement, indemnity and contribution obligations of the Indemnifying Party under this Subsection 4(c) shall be in addition to any liability that the Indemnifying Party may otherwise have. The provisions of this Subsection 4(c) shall survive the expiration or earlier termination of this Agreement.

(d) As of the Effective Date and throughout the Term, ESAUT represents and warrants that neither it nor its subcontractors (and its and their respective Representatives, and its and their Agents) is the subject of any sanctions administered or enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “**Sanctions**”), nor is ESAUT or its Representatives or subcontractors located, organized or resident in a country or territory that is the subject of Sanctions. ESAUT represents and warrants that neither it nor its Representatives and subcontractors has, or during the term of this Agreement will, violate any Sanctions. ESAUT represents and warrants that neither it nor its subcontractors (or its and their respective Representatives, or its and their Agents) will use this Agreement or any of the benefits obtained hereunder to fund or engage in any activities with any Person or in any country or territory, that, at the time of such funding or activity, is the subject of Sanctions, or in any other manner that will result in a violation by any Person of Sanctions. The provisions of this Subsection 4(d) shall survive the expiration or earlier termination of this Agreement.

5. ROYALTIES

(a) During the Term and subject to the terms and conditions of this Agreement, Bank shall pay Royalties as described in Schedule A to ESAUT.

(b) No compensation or payments shall be paid to ESAUT until a Schedule B (W-9 Form and ACH Form) or other IRS required form (e.g., W-8) is fully completed and returned to Bank. Except as otherwise provided in Schedule A, payment of Royalties then due shall be made, in arrears, approximately 45 days after the end of each calendar quarter.

(c) To extent permitted by Applicable Law, Bank shall make available quarterly each year a report on the amount of Royalties owed to or earned by ESAUT and all additional information customarily provided by Bank in such a report. Such reports shall be certified by an officer of Bank as to their accuracy; provided, however, that the reports shall be certified as to their accuracy by the nationally recognized independent certified public accountants then being utilized by Bank, at ESAUT’s expense, if ESAUT so requests such accountants’ certification in writing.

(d) If at any time during the Term any change in any card network’s interchange rate(s) or similar rate(s), when measured separately or together with all other rate changes since the Effective Date, has more than a *de minimis* adverse impact on Bank’s businesses (including the businesses of any Bank Affiliate providing a product or service under this Agreement), as determined by Bank in its sole discretion

("Impact"), then Bank may notify ESAUT in writing of Bank's desire to renegotiate the Royalties and any other financial terms in the Agreement to address the Impact. Such notification shall include a reasonably detailed description of the Impact. If, within 30 business days after ESAUT's receipt of Bank's notice, the Parties have not, despite their good faith efforts, fully executed an addendum that modifies the Royalties and other financial terms to address the Impact, Bank shall have the right to terminate either the Deposit Program or the Credit Card Program, or the Agreement in its entirety, without penalty or liability to ESAUT, upon 90 days advance written notice. For the avoidance of doubt, in the event either the Deposit Program or Credit Card Program is terminated earlier than the Agreement as provided for in this Subsection 5(d), such terminated program remains subject to the provisions in the Agreement that by their terms are meant to survive the expiration or earlier termination of this Agreement and the rights and obligations in any other provision of this Agreement with respect to the products offered under such program shall be null and void, in each case as if the termination of such program was a termination or expiration of the Agreement for just that program.

(e) Notwithstanding anything in this Agreement to the contrary, Bank will not be required to pay Royalties or any other compensation to ESAUT with regard to, as a result of opening, or based upon any student Credit Card Accounts.

6. PROGRAM ADJUSTMENTS

Bank has the right to make periodic adjustments to the Program, including changes to its terms and features (including the terms and features of the Financial Service Products offered pursuant to the Program).

7. CONFIDENTIALITY

(a) The terms of this Agreement, any proposal, financial information, performance information, proprietary information (including trade secrets and the Marketing Lists), legally privileged information and information of third parties provided by or on behalf of one Party to the other Party (or, to the extent applicable, its subcontractors or any of its or their respective Representatives, and collectively with the other Party, "**Recipient**") prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("**Information**") are confidential as of the date of disclosure. Without limitation of any of the foregoing, the Marketing Lists shall be considered ESAUT's Information. Information shall be deemed to include information developed, produced or derived from any of the foregoing. Such Information shall not be disclosed by the Recipient to any other Person, except as expressly permitted under this Agreement or as mutually agreed in writing. Information will be used by Recipient only for purposes of, or as otherwise authorized by, this Agreement or to comply with any Applicable Law. Recipient will hold the Information of the disclosing Party the same care it uses to protect its own Information of like importance.

(b) A Recipient shall be permitted to disclose Information: (i) to its accountants, lawyers, financial advisors, marketing advisors, affiliates and employees (collectively, its "**Agents**") as necessary for the performance of their respective duties, provided that such Agents agree to treat the Information as confidential and such Agent is subject to enforceable confidentiality provisions at least as restrictive in this Agreement; or (ii) as required by Applicable Law or requested by any Governmental Authority (including ESAUT's compliance with 12 C.F.R. §1026.57(b)); provided that (a) to the extent not prohibited by Applicable Law or Governmental Authority, Recipient provides the disclosing Party with prior written notice of such obligation and the opportunity to oppose such disclosure or obtain a protective order; (b) Recipient only discloses such Information as is required to comply with such Applicable Law or Governmental Authority; and (c) no such disclosure shall otherwise exempt such Information from being

treated as confidential under this Agreement. Notwithstanding the foregoing, the Recipient shall be liable for any breach of the Section by its Agents.

(c) Each Party shall keep (and shall cause its subcontractors and its and their respective Representatives to keep) all Information (including Nonpublic Personal Information, the Accountholder List and Accountholder Information) confidential and shall not make any copies of any kind or transfer, provide, trade, give away, barter, lend, send, sell, or otherwise disclose (collectively “*transfer*”) (and its and their respective Representatives not to make or transfer) any such Information to any other entity or individual for any reason, except: (i) as permitted by this Agreement, Applicable Law, Governmental Authority; (ii) in the routine operation of the Program; or (iii) for uses agreed to in writing by the other Party prior to any such transfer. For the avoidance of doubt, each Party shall be liable for any breach of this Section by its subcontractors and its and their respective Representatives. If a Party receives a request or demand to disclose Information (including Nonpublic Personal Information, the Accountholder List and Accountholder Information) pursuant to a subpoena, order of court of competent jurisdiction or by judicial or administrative agency or legislative body or committee, then such Party will: (i) to the extent not prohibited by Applicable Law or Governmental Authority, immediately notify the other Party of the existence, terms, and circumstances surrounding such request; (ii) consult with the other Party on the advisability of taking legally available steps to resist or narrow such request; and (iii) if disclosure of such information is required or deemed advisable, exercise its best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of such information to be disclosed that the other Party designates.

(d) During the Term and thereafter until ESAUT and its subcontractors and its and their respective Representatives and Agents no longer have in their possession or control Bank’s Information ESAUT will have, maintain and continually assess (and cause its subcontractors and its and their respective Representatives and Agents to have, maintain and continually assess) an information security program that is designed to: (i) ensure the security, integrity and confidentiality of Information (including use of a change control process to ensure that access to its systems (and those of its subcontractors and its and their respective Representatives and Agents) and Information is controlled and recorded); (ii) protect against any anticipated threats or hazards to the security or integrity of Information which includes the use of up-to-date commercially available virus and malicious code detection and protection products; (iii) protect against unauthorized access to or use of Information that could result in substantial harm or inconvenience to a Customer or applicant in respect of the Program; and (iv) ensure the proper return of Information to Bank and/or the proper disposal of Information.

(e) During the Term and thereafter until ESAUT and its subcontractors and its and their respective Representatives and Agents no longer have in their possession or control Bank’s Information, ESAUT will (and cause its subcontractors and its and their respective Representatives and Agents to): (i) notify Bank in writing within one (1) business day; and (ii) promptly call the Bank of America Incident Response Team at (800) 207-2377, Option 1, upon learning of a breach of security or the detection of any suspicious activity relating to an information security breach or attempted breach that could include Information, whether in ESAUT’s possession or in the possession of an affiliate, employee, volunteer, agent, and/or Representative. ESAUT will cooperate fully (and cause its subcontractors and its and their respective Representatives and Agents to cooperate fully) with Bank to investigate, resolve and control security incidents. ESAUT will reimburse Bank for its cost of producing and mailing any notice required by Applicable Law that informs the Customer of a security breach and will pay for any credit monitoring service or other remedy that is provided to affected Customers. ESAUT will monitor (and will cause its subcontractors and its and their respective Representatives and Agents to monitor) industry-standard information channels for newly identified system vulnerabilities and fix or patch any identified security problem in an adequate and timely manner. Unless otherwise expressly agreed in writing, “timely” will

mean that ESAUT will introduce (and cause its subcontractors and its and their respective Representatives and Agents to introduce) such fix or patch as soon as commercially reasonable after ESAUT (or its subcontractors and its and their respective Representatives and Agents) becomes aware of the security problem). This obligation extends to all devices that comprise ESAUT's system (or that of its subcontractors and its and their respective Representatives and Agents), including application software, databases, servers, firewalls, routers and switches, hubs and to all of ESAUT's other Information handling practices.

(f) Bank and ESAUT each agree that if they or one of their Representatives discloses such Information to another person or entity in violation of this Agreement, or uses such Information for a purpose not expressly permitted by this Agreement, such act shall be deemed a material breach of this Agreement by that Party. The non-breaching Party may, in addition to any other right or remedy available at law or in equity and upon ten (10) days prior written notice to the other Party, cease providing the other Party with any reports (other than the royalty report described in this Agreement) or other information (other than the Marketing List) concerning the Program or the Agreement, whether or not a requirement of the Agreement.

(g) If a breach of this Section 7 is due to the unauthorized disclosure of the Marketing List by Bank or its Representative (or the use of the Marketing List by Bank or its Representative in a manner not permitted by this Agreement), except as otherwise required by Applicable Law, Bank and its Agent shall immediately cease and desist from all further uses of the Marketing List and must completely refrain from using the Marketing List until (and if) the breach is cured.

(h) The provisions of this Section 7 shall survive the expiration or earlier termination of this Agreement.

8. TERM OF AGREEMENT

(a) The initial term of this Agreement shall begin on the Effective Date and end on June 30, 2026 ("**Initial Term**").

(b) This Agreement shall automatically extend at the end of the Initial Term or any renewal term for successive two-year periods (each a "**Renewal Term**"; and together with the Initial Term, the "**Term**"), unless either Party gives written notice of its intention not to renew at least 90 and not more than 180 days, prior to the end of the then current Term.

9. STATE LAW GOVERNING AGREEMENT

This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance shall be governed by, and construed and enforced in accordance with, the internal Laws of the State of Delaware applicable to contracts entered into and performed entirely within the State of Delaware, without giving effect to any choice of law or conflict of laws rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware and shall be deemed for all purposes to be made and fully performed in Delaware. Any claim or dispute arising out of or relating to this Agreement asserted by ESAUT shall be tried in a court of competent jurisdiction in New Castle County, Delaware. Any claim or dispute arising out of or relating to this Agreement asserted by Bank shall be tried in a court of competent jurisdiction in Travis County, Texas.

10. GROUP MARKETING

(a) ESAUT will design and produce, at its expense, all marketing material with regard to any Program marketing efforts being conducted, directly or indirectly, by ESAUT, including any GIP ("**ESAUT Marketing Effort**"). ESAUT will give Bank thirty (30) days prior notice prior to engaging in any ESAUT Marketing Effort.

(b) All GIP marketing materials will be coded by ESAUT as instructed by Bank for tracking purposes. Bank shall timely deliver such coding to ESAUT within ten (10) business days of ESAUT's notice under Subsection 10(a). Credit Card Accounts generated from any GIP will entitle ESAUT to the Royalty for GIP specified in Schedule A, subject to the other terms and conditions of this Agreement. Notwithstanding the above, Credit Card Accounts opened from or arising out of marketing materials available to, or inquiries from Members which do not contain or reference such coding shall not constitute GIP Accounts and will not qualify for any GIP Royalty.

(c) Bank will have the right of prior approval of all marketing materials to be used in any ESAUT Marketing Effort. Bank has control over, in its sole discretion, the scope, timing, content and continuation of any ESAUT Marketing Effort. In furtherance of the above, ESAUT shall immediately discontinue any or all ESAUT Marketing Efforts upon receipt of, and in accordance with any written notice from Bank requesting such discontinuance. ESAUT will not deviate from the approved materials and plan for any ESAUT Marketing Effort without the prior written approval of Bank.

(d) All costs incurred by Bank in producing and mailing materials created pursuant to any ESAUT Marketing Effort or of supporting any ESAUT Marketing Effort will be promptly reimbursed by ESAUT upon demand, provided that ESAUT has requested in writing that Bank produce and mail such materials or requested in writing such support from Bank for any ESAUT Marketing Effort.

(e) With respect to any ESAUT Marketing Effort, ESAUT will comply with all Applicable Law and training.

(f) ESAUT will advertise the Credit Card Program on its website and any other Financial Service Products offered under the Program as the parties shall mutually agree upon. Bank may establish a hyperlink from each such advertisement to another internet site (an application site), or may provide a telephone number in each such advertisement, to enable a person to apply for each advertised Financial Service Product. Any Credit Card Accounts generated pursuant to such a hyperlink or telephone number will entitle ESAUT to the GIP compensation set forth in Schedule A, subject to the other terms and conditions of this Agreement. ESAUT will modify or remove such advertisements within three (3) days of Bank's request. To enable Bank to view all Program material, ESAUT will provide Bank with the ability to access any and all pages within the ESAUT internet site(s), including any "members only" or other restricted access pages that display Program material.

(g) During the term of this Agreement, ESAUT may conduct on its own, and at its own expense, ESAUT Marketing Efforts for Deposits offered under the Program, including, for example: (i) online marketing efforts, which would include hyperlinks to a Bank Deposits application and/or Bank inbound application telephone number(s), which shall include, but not be limited to, standalone e-mails, e-newsletters, online advertising, and welcome kit e-mails; and (ii) offline marketing efforts, which would include either Deposit applications and/or Bank inbound application telephone number(s), which shall include, but not be limited to, publication ads, magazine inserts, welcome kits, statement messages, statement inserts, flyers, renewal notices, event notifications and VRU messaging.

(h) Subsections (c), (d), and (e) of this Section 10 shall survive the expiration or earlier termination of this Agreement.

11. TERMINATION

(a) In the event of any material breach of this Agreement by either Party, the other Party may terminate this Agreement by giving notice to the breaching Party. This notice shall (i) include a description of 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 60 days after receipt of notice, as provided herein (the "**Cure Period**"), then this Agreement shall terminate 30 days after the Cure Period.

(b) If either the Bank or ESAUT:

- (i) commences a voluntary case under Title 11 of the United States Code or the corresponding provisions of any successor laws;
- (ii) is subject to an involuntary case against such Party under title 11 of the United States Code or the corresponding provisions of any successor laws and either (A) the case is not dismissed by midnight at the end of the 60th day after commencement or (B) the court before which the case is pending issues an order for relief or similar order approving the case;
- (iii) is appointed a custodian by a court of competent jurisdiction, or such Party makes an assignment of all or substantially all of its assets to such a custodian (as that term is defined in title 11 of the United States Code or the corresponding provisions of any successor laws) for such Party or all or substantially all of its assets;
- (iv) fails generally to pay its debts as they become due (unless those debts are subject to a good-faith dispute as to liability or amount) or acknowledges in writing that it is unable to do so;
- (v) makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation; or
- (vi) becomes insolvent in that its liabilities exceed its assets,

then the other Party may immediately terminate this Agreement by sending written notice to such Party.

(c) Upon the expiration or earlier termination of this Agreement, Bank shall, (i) except as set forth in Subsection 11(d), cease to use the ESAUT Trademarks for Program marketing purposes, provided that Bank may conclude all solicitations required by Applicable Law, and (ii) immediately stop use of the Marketing Lists except as necessary to wind-down the Program or comply with Applicable Law or Governmental Authority. Upon the expiration or earlier termination of this Agreement, Bank shall not claim any right, title, or interest in or to the ESAUT Trademarks or to the Marketing Lists. The provisions of this Subsection 11(c) shall survive the expiration or earlier termination of this Agreement.

(d) Bank shall have the right to prior review and approval of any notice in connection with, relating or referring to the expiration or earlier termination of this Agreement to be communicated by or on behalf of ESAUT or any ESAUT Affiliate to the Members. Upon expiration or earlier termination of this Agreement, Bank shall have up to the greater of (i) 90 days from the termination or expiration date or (ii) as soon as operationally reasonable by the Bank to: (i) suspend marketing and remove marketing materials from Bank's marketing channels; (ii) use ESAUT Trademarks in connection with existing Deposit Accounts, Credit Card Accounts and those opened during such period; and (iii) remove ESAUT Trademarks from Program collateral and account materials in Bank's possession, such as statements, welcome packages, and card carriers. ESAUT shall not attempt to cause the removal of ESAUT Trademarks from any Person's

credit devices, debit devices, checks or records of any Customer existing as of 90 days immediately following the expiration or earlier termination of the Term. Bank shall have the right to use ESAUT Trademarks on such credit devices, debit devices, checks and records until their normally scheduled reissue date or exhaustion and issue credit cards bearing ESAUT Trademarks until such date. The provisions of this Subsection 11(d) shall survive the expiration or earlier termination of this Agreement.

(e) If Applicable Law has or could have a material adverse effect on Bank's businesses (including the businesses of any Bank Affiliate providing a product or service under this Agreement), as determined in Bank's sole discretion ("**Event**"), Bank may notify ESAUT in writing of Bank's desire to renegotiate the terms of the Agreement to address the Event. To the extent not prohibited under Applicable Law, such notification shall include a description of the Event. If, within 30 business days after ESAUT's receipt of Bank's notice, the Parties have not, despite their good faith efforts, fully executed an addendum that is satisfactory to both Parties, Bank shall have the right to terminate either the Deposit Program or the Credit Card Program, or the Agreement in its entirety, without penalty or liability to ESAUT, upon 90 days' advance written notice. For the avoidance of doubt, in the event either the Deposit Program or Credit Card Program is terminated earlier than the Agreement as provided for in this Subsection 11(e), such terminated program remains subject to the Sections in the Agreement that by their express terms are meant to survive the expiration or earlier termination of this Agreement and the rights and obligations in any other provision of this Agreement with respect to the products offered under such program shall be null and void, in each case as if the termination of such program was a termination or expiration of the Agreement for just that program.

(f) For the one (1) year period immediately following the expiration or earlier termination of this Agreement for any reason, ESAUT agrees that neither ESAUT nor any ESAUT Affiliate shall, by itself or in conjunction with others, directly or indirectly, target any offer of a Financial Service Product or program solely to persons who were Customers. Notwithstanding the foregoing, ESAUT may, after the expiration or earlier termination of this Agreement, offer persons who were Customers the opportunity to participate in another financial service program endorsed by ESAUT, provided the opportunity is not only made available to such persons but rather as a part of an offer also provided to all Members that meet the criteria (e.g., geography, net worth, etc. but excluding the mere fact that they are Customers) used by ESAUT to create the applicable marketing list (the "**List Criteria**") and provided further that persons are not directly or indirectly targeted because they are a customer of Bank, or offered any terms or incentives that differ from those offered to all Members. For example, if ESAUT targets Customers, it must do so in a solicitation to all Members that meet the List Criteria and not specially identify Customers in the marketing materials. Notwithstanding any of the foregoing, ESAUT shall not be obligated to offer any financial service program to a Member that has opted-out of receiving marketing materials. The provisions of this Subsection 11(f) shall survive the expiration or earlier termination of this Agreement.

(g) If ordered or requested to do so by any Governmental Authority, Bank may terminate this Agreement without further obligation or penalty upon reasonable prior written notice to ESAUT effective as of the date specified in such notice or as required by such Governmental Authority. To the extent not prohibited by Applicable Law or the Governmental Authority, any such notice shall include a copy of any notice from the Governmental Authority.

(h) Promptly after the expiration or earlier termination of this Agreement, ESAUT agrees that it shall (and shall cause its subcontractors and its and their respective Representatives to): (i) immediately destroy and purge from all its systems all Information, including Nonpublic Personal Information; and (ii) return or destroy within 30 days all such Information that is in tangible form, including any and all full or partial copies, or reproductions thereof in any medium whatsoever. ESAUT shall (and shall cause its subcontractors and its and their respective Representatives to) destroy all Information in accordance with

Bank's then-current destruction policy as provided to ESAUT. ESAUT shall have the right to retain a copy of Information of Bank only to the extent required for legal, regulatory, or other governmental compliance purposes provided that such retention is in accordance with this Agreement.

12. MISCELLANEOUS

(a) This Agreement cannot be amended, modified or supplemented except by written agreement signed by the authorized agents of both Parties. Emails, including emails that bear an electronic "signature block" identifying the sender, do not constitute signed writings for purposes of this Subsection 12(a); provided, however that changes of address/person may be accomplished by plain body of an e-mail delivered as provided below in Subsection 12(f).

(b) This Agreement (a) is a final, complete, and exclusive statement of the agreement and understanding of the Parties with respect to the subject matter hereof, (b) collectively constitute the entire agreement of the Parties with respect to the subject matter hereof, and (c) supersede(s), merge(s), and integrate(s) herein any prior and contemporaneous negotiations, discussions, representations, understandings, and agreements between any of the Parties (including the Previous Agreement, the Term Sheet and the Confidentiality Agreement), whether oral or written, with respect to the subject matter hereof.

(c) Notwithstanding anything to the contrary herein, no waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The provisions of this Subsection 12(c) shall survive the expiration or earlier termination of this Agreement.

(d) Titles, captions, and headings included herein are for convenience of reference only and are not to affect the meaning, construction, or interpretation hereof or of any provision hereof.

(e) It is the desire and intent of the Parties that the provisions of this Agreement be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, if any particular provision of this Agreement shall be adjudicated by a court of competent jurisdiction or Governmental Authority to be invalid, prohibited or unenforceable for any reason, such provision, as to such jurisdiction, shall be ineffective, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be invalid, prohibited or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

(f) All notices required by this Agreement must be given in writing in order to be valid. Notices shall be deemed given: (i) upon receipt if sent hand delivery or facsimile; (ii) one (1) business day after sending prepaid by nationally or internationally recognized overnight or express courier or service; (iii) five (5) business days after mailing by registered or certified mail, postage prepaid, return receipt requested; or (iv) at the time that notice of receipt is generated electronically as a result of the recipient party opening the email (*i.e.*, read request receipt, which some recipients might be able to prevent) or at the time that

the sender can demonstrate electronically that the email has been delivered (*i.e.*, by requesting a delivery receipt), or at such other time as the receiving party acknowledges receipt. To be valid for purposes of this Agreement, all notices must be addressed as follows:

(1) If to ESAUT:

The Ex-Students Association of The University of Texas
2110 San Jacinto Blvd
Austin, Texas 78712

ATTENTION: CEO and Executive Director

Facsimile: N/A
e-mail: affinitycontracts@texasexes.org

(2) If to Bank:

Bank of America, N.A.
1000 Samoset Drive
DE5-021-02-07
Newark, DE 19713

ATTENTION: Contract Administration

Facsimile: 206-585-9732
e-mail: cadminis@bankofamerica.com

(3) Any Party may change the mail, fax number, and e-mail addresses to which communications are to be sent by giving notice, as provided herein, of such change of address. Communication sent using e-mail properly addressed as required by this Section 12(f) shall be presumed properly sent notwithstanding the receipt by the sender of an undeliverable notice or similar automated response.

(g) Without the prior written consent of Bank, ESAUT will not (and shall cause its Subcontractors and their respective Representatives to not) assign any of its rights or delegate any of its (or their) obligations under or arising from this Agreement, including access to the Bank's data (including Information) and operational systems. Bank will not assign or transfer its rights and/or obligations under this Agreement without the written consent of ESAUT; provided however, that Bank may assign or transfer, without consent, any of its rights and/or obligations under this Agreement:

(i) to any Bank Affiliate;

(ii) to any Person(s) pursuant to a sale(s) (other than a sale as described in Clause (iii), below) as long as such prospective buyer(s) has/have substantially similar customer satisfaction standards as Bank; or,

(iii) to any Person(s) pursuant to a merger, consolidation, or a sale(s) of all or substantially all the assets of Bank.

Bank may use the services of any third party in fulfilling its obligations under this Agreement. Certain Financial Service Products or services under this Agreement may be performed, offered or provided by or through Bank's Affiliates.

(h) The Parties are not agents, joint or co-venturers, representatives or employees of each other. 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 in this Agreement is intended or shall be deemed to confer any rights or benefits upon any Person other than the Parties hereto or to make or render any such other Person a third-party beneficiary of this Agreement, except to the extent that a Representative or an Affiliate of either Party or any officers, directors, agents, representatives or employees of a Party or its Affiliates has any rights (including a right to be indemnified) under this Agreement. The provisions of this Subsection 12(i) shall survive the expiration or earlier termination of this Agreement.

(j) Neither Party shall make any statement, whether written, oral or otherwise, to any Person which criticizes, disparages, condemns or impugns the reputation or character of the other or any of its Affiliates, the Program or the Financial Service Products offered therein, whether or not the statement is true and whether or not it is characterized as confidential.

(k) Neither Party shall be held responsible for any delay or failure in performance (other than payment) to the extent such delay or failure is caused by fire, flood, explosion, terrorism, war, strike, embargo, government laws, rules, regulations or requirements, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control, that was not reasonably foreseeable or avoidable, and without the fault or negligence and/or lack of diligence of the delayed Party ("**force majeure condition**"). The non-delayed Party shall have the right to terminate this Agreement if such force majeure condition endures for more than 120 days by providing the delayed Party with least 30 days prior written notice of such termination, which notice must be received by the delayed Party within 10 days after the expiration of the 120-day period.

(l) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree to accept a digital image of this Agreement, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction. The Parties agree that if a representative of each of the Parties signs this Agreement (whether manually or electronically) and transmits such Agreement to the other Party or Parties via facsimile or electronically transmitted portable document format, the Agreement shall be treated in all manner and respects as having an original signature (or counterpart thereof) and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of a Party, each other Party hereto shall re-execute original forms thereof and deliver them to all other Parties. No Party shall raise the use of a facsimile machine, electronic signature or electronic transmission in portable document format or the fact that any signature was transmitted or communicated through the use of facsimile machine or electronic transmission in portable document format as a defense to this Agreement and each such Person forever waives any such defense. The provisions of this Subsection 12(l) shall survive the expiration or earlier termination of this Agreement.

(m) This Agreement is the product of negotiations between the Parties hereto and their respective counsel. No provision, Section or Subsection of this Agreement shall be read, construed or interpreted for

or against either Party by reason of ambiguity of language, rule of construction against the draftsman, or any similar doctrine.

(n) Each Party agrees to cooperate with (and to cause each of its subcontractors, and its and their respective Representatives, to cooperate with) each Governmental Authority with jurisdiction over such Party in connection with any examination or other supervisory activity by such Governmental Authority; provided that Bank is authorized to do so under Applicable Law, by applicable Governmental Authority, or Bank policy. The provisions of this Subsection 12(n) shall survive the expiration or earlier termination of this Agreement.

(o) Neither any submission of this document by one Party to the other, nor any correspondence or other communications between the Parties in connection therewith, is intended or shall be deemed to constitute an offer of any kind or to create any obligations between the Parties unless and until one or more duplicates of this document has been fully executed and delivered between the Parties hereto, whereupon this document shall become the binding Agreement. Accordingly, any such submission or communications or correspondence between the Parties or their respective agents or attorneys is intended only as non-binding discussions, and either Party shall have the absolute right to withdraw from such discussions at any time without any liability whatsoever to the other Party.

(p) Each Party hereto acknowledges and agrees that any controversy which may arise under this Agreement or any related agreement is likely to involve complicated and difficult issues, and therefore each such Party hereby irrevocably and unconditionally waives any right such Party may have to a trial by jury with respect to any litigation between or among the Parties directly or indirectly arising out of or relating to this Agreement or any related agreement, or the transactions contemplated by this agreement or any related agreement. Each Party hereto certifies and acknowledges that: (i) no representative, agent or attorney of any other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce the foregoing waiver; (ii) such Party understands and has considered the implications of this waiver; (iii) such Party makes this waiver voluntarily; and (iv) such Party has been induced to enter into this Agreement and each related agreement by, among other things, the mutual waivers and certifications in this Subsection 12(p). The provisions of this Subsection 12(p) shall survive the expiration or earlier termination of this Agreement.

(q) Except as expressly provided otherwise in this Agreement, no right or remedy herein conferred upon or reserved to either Party (including any termination pursuant to Section 11) is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Agreement, or under law or regulation, whether now or hereafter existing.

(r)

(1) EXCEPT AS PROVIDED HEREIN OR IN (2) BELOW, IN NO EVENT SHALL ANY PARTY OR ANY OF ITS REPRESENTATIVES BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTIES OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING ANY DAMAGES FOR BUSINESS INTERRUPTION, LOSS OF USE OF DATA, OR LOST REVENUE OR PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE BREACHING PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(2) THE LIABILITY LIMITATION SET FORTH IN (1) ABOVE SHALL NOT APPLY TO DAMAGES OR LIABILITIES ARISING FROM (A) A VIOLATION OF A PARTY'S OWNERSHIP RIGHTS IN THE ESAUT

TRADEMARKS, MARKETING LISTS, ACCOUNTHOLDER LISTS, OR ACCOUNTHOLDER INFORMATION, (B) THIRD-PARTY CLAIMS THAT ARE SUBJECT TO INDEMNIFICATION HEREUNDER OR (C) DAMAGES OR LIABILITIES ARISING FROM A MATERIAL BREACH OF THE CONFIDENTIALITY PROVISIONS OF THIS AGREEMENT.

(s) As of the Effective Date, the Parties hereby agree that (i) the Previous Agreement is amended and restated in its entirety by this Agreement, (ii) the Parties' rights and obligations with respect to the Program shall be governed by the terms and conditions of this Agreement, and (iii) neither Party has any payment or other obligation to the other Party under the Previous Agreement; provided, however, that the Previous Agreement shall govern the Parties' relationship with respect to any claim or obligation arising prior to the Effective Date.

13. ACCOUNTHOLDER LIST

(a) If no notice of termination has been given by either Party, and no event of default of or breach by ESAUT has occurred and is continuing or not cured, or would have occurred but for the giving of notice or the passage of time or both, during the Term, Bank will, from time to time as agreed by the Parties, furnish an Accountholder List to ESAUT. Notwithstanding any provision of this Agreement to the contrary, Bank will not be required to furnish and may restrict ESAUT's use of any Accountholder List or Accountholder Information, if Bank is prohibited from disclosing the same or permitting such use because of Applicable Law, bank-wide privacy policy, public privacy pledge, or individual present or former Accountholder request, or if furnishing the Accountholder List or Accountholder Information or its intended use would create an additional regulatory or compliance burden on Bank.

(b) ESAUT will not use the Accountholder List for any purpose not expressly permitted by Bank in this Agreement or in a separate writing prepared by Bank and delivered from time to time to ESAUT. ESAUT will secure the Accountholder List in accordance with the requirements of this Agreement and, as communicated by Bank to ESAUT from time to time, Bank's instructions. ESAUT will only permit access to the Accountholder List to those employees of ESAUT who need such access to perform their duties relating to this Agreement. ESAUT will inform such employees of ESAUT's duties and limitations under this Agreement, and enforce compliance therewith.

(c) Any Accountholder List furnished to ESAUT may contain dummy information (*e.g.*, names, account information, addresses, *etc.*, unknown to ESAUT) for the purpose of detecting unauthorized use of an Accountholder List. A violation of this Section is conclusively proven and the relief specified below will be deemed owed when Bank establishes the following conditions: (i) that Bank placed dummy information on the list (*e.g.*, name(s), account information, address(es), *etc.*); (ii) that the dummy information received any mailings which were sent or generated outside the scope of the permitted use of the Accountholder List; and (iii) that identical dummy information was not furnished by Bank or its affiliates to any third party.

(d) ESAUT agrees Bank will be entitled to injunctive relief to prevent violation or further violation by ESAUT and/or its Members, employees, volunteers, agents, or representatives of this Section. Nothing in this Agreement will be construed as prohibiting Bank from pursuing any other remedy on account of such violation or further violation (including threatened violation).

(e) ESAUT will return to Bank each Accountholder List, in the same form as received by ESAUT within thirty (30) days of receipt of such Accountholder List. Promptly, using commercially reasonable efforts, but no less than ten (10) business days, after the expiration or earlier termination of the Agreement, ESAUT agrees that it will: (i) immediately destroy and purge from all its systems all Accountholder Lists

and Accountholder Information; and (ii) return or destroy within thirty (30) days all Accountholder Lists and Accountholder Information that is in tangible form, including any and all full or partial copies, or reproductions thereof in any medium whatsoever. ESAUT will perform all destruction of Accountholder Lists and Accountholder Information in accordance with Bank's then current destruction policy; provided that Bank has previously provided such policy to ESAUT in writing.

(f) ESAUT will notify Bank in writing within one (1) business day of learning of a breach of security or the detection of any suspicious activity relating to an information security breach or attempted breach that could include the Accountholder List or Accountholder Information. ESAUT will cooperate fully with Bank to investigate, resolve and control security incidents. ESAUT will reimburse Bank for its reasonable cost of producing and mailing any notice required by law or regulation that informs the Accountholders of a security breach. ESAUT will monitor industry-standard information channels (bugtraq, CERT, OEMs, etc.) for newly identified system vulnerabilities and fix or patch any identified security problem in an adequate and timely manner. Unless otherwise expressly agreed in writing, "timely" will mean that ESAUT will introduce such fix or patch as soon as commercially reasonable after ESAUT becomes aware of the security problem. This obligation extends to all devices that comprise ESAUT's system, e.g., application software, databases, servers, firewalls, routers and switches, hubs, etc., and to all of ESAUT's other Information handling practices.

(g) Because the nature of Information regarding Cardholders and Credit Card Accounts makes an evaluation of damages after a violation of this Agreement impossible, then if ESAUT or its subcontractors and its and their respective Representatives and Agents including any of its or their respective officers, directors/members, employees, volunteers, agents, and/or representatives uses such information in a manner that violates this Agreement, Bank will be entitled to, in addition to damages, injunctive relief to prevent violation or further violation of this Section by ESAUT (or its subcontractors and its and their respective Representatives and Agents) including their respective Members, employees, volunteers, agents, or representatives. Nothing in this Section will be construed as prohibiting Bank from pursuing any other remedy on account of such breach or threatened breach.

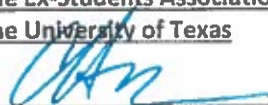
(h) The provisions of this Section 13 except for Subsection (a) will survive the expiration or earlier termination of this Agreement.

[Remainder of this page intentionally blank – signature page follows]

IN WITNESS WHEREOF, each of the Parties, by its representative (who represents and warrants to the other Party that he or she has the necessary authority to bind his or her respective Party), has executed this Agreement as of the date first above written.

The Ex-Students Association of
The University of Texas

By:

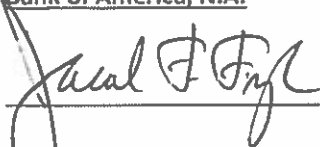


Name: Chuck Harris

Title: Executive Director

Bank of America, N.A.

By:



Name:

Jake Frigo

Title:

Senior Vice President

Schedule A

I. ROYALTY ARRANGEMENT

During the Term, Bank shall pay ESAUT quarterly in arrears, a Royalty as calculated below. Bank may create a special class of consumer accounts for ESAUT employees under the Program, and shall not pay compensation for such designated accounts. All Royalty payments due hereunder are subject to adjustment by Bank for any prior overpayment of Royalties by Bank:

A. CREDIT CARD ACCOUNTS

1. \$3.00 (three dollars) once for each new Credit Card Account opened (other than a GIP Account) after it becomes an Activated Account.
2. \$3.00 (three dollars) for each Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Credit Card Account that: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that Credit Card Account; and 2) has had active charging privileges for each of the immediately preceding twelve (12) months.
3. 0.50% (fifty basis points) of the Net Retail Spend generated by Customers using Credit Card Accounts (other than reward accounts).
4. \$100.00 (one hundred dollars) once for each GIP Account opened after it becomes an Activated Account. Such GIP Accounts will not qualify for any other opening-of-an-account Royalty.

B. REWARD ACCOUNTS

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

1. \$3.00 (three dollars) once for each new Reward Account opened, after it becomes an Activated Account. This Royalty will not be paid for any account which, after opening, converts to a Reward Account, or for any Reward GIP Account.
2. \$3.00 (three dollars) for each Reward Account for which the Annual Fee is paid by the Customer. If no Annual Fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Reward Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that Reward Account; and 2) has had active charging privileges for each of the preceding twelve (12) months. A Reward Account may renew every twelve (12) months after the opening of the account.
3. 0.20% (twenty basis points) of all Net Retail Spend generated by Customers using Reward Accounts.
4. \$100.00 (one hundred dollars) once for each Reward GIP Account opened after it becomes an Activated Account. Such Reward GIP Accounts will not qualify for any other opening-of-an-account Royalty.

C. **PREMIUM REWARD ACCOUNTS**

Premium Reward Account Royalty compensation provisions will not affect any other Royalty compensation provisions contained in the Agreement, and the Royalty compensation provisions referencing any other form of Credit Card Accounts will not apply to Premium Reward Accounts.

1. \$3.00 (three dollars) once for each new Premium Reward Account opened after it becomes an Activated Account. This Royalty will not be paid for any account which, after opening, converts to a Premium Reward Account, or for any Premium Reward GIP Account.
2. \$3.00 (three dollars) for each Premium Reward Account for which the Annual Fee is paid by the Customer. If no Annual Fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Premium Reward Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that Premium Reward Account; and 2) has had active charging privileges for each of the preceding twelve (12) months. A Premium Reward Account may renew every twelve (12) months after the opening of the account.
3. 0.05% (five basis points) of all Net Retail Spend generated by Customers using a Premium Reward Account.
4. \$100.00 (one hundred dollars) once for each Premium Reward GIP Account opened after it becomes an Activated Account. Such Premium Reward GIP Accounts will not qualify for any other opening-of-an-account Royalty.

D. **DEPOSIT ACCOUNTS**

During the Term, ESAUT will receive the Deposits Royalties set forth below. Deposits Royalty compensation provisions will only apply to Deposit Accounts and not to any other Financial Service Product. Except as set forth in this Section D, Deposit Accounts are not eligible for any other Royalty compensation provisions contained in the Agreement. Further, Deposit Royalties will not be paid to ESAUT on any existing deposit account that is converted to the Program.

1. \$10.00 (ten dollars) for each new checking account opened under the Program which has a positive balance of at least \$50.00 (fifty dollars) as of the ninetieth (90th) day from the account opening date.
2. An additional \$2.00 (two dollars) for every checking account opened under the Program that has a positive balance of at least \$50.00 (fifty dollars) on each subsequent anniversary of the account opening date. Payments will be made approximately forty-five (45) days after the end of each calendar quarter.

E. **ROYALTY ADVANCE**

1. Upon full execution of this Agreement by Bank, and upon each annual anniversary of the Effective Date in 2020 through 2023, respectively, during the Initial Term of this Agreement, Bank shall pay to ESAUT as follows: nine hundred thousand dollars (\$900,000.00) in 2019, eight hundred twenty-five thousand dollars (\$825,000.00) in 2020, seven hundred fifty thousand dollars (\$750,000.00) in 2021, six hundred seventy-five thousand dollars (\$675,000.00) in 2022 and six hundred thousand dollars (\$600,000.00) in 2023 (each and in the aggregate, an “**Advance**”), as an advance against future Eligible Royalties, subject to the provisions set forth below. All Eligible Royalties accrued shall, in lieu of direct payment to ESAUT, be applied against each of the Advances until such time as all Advances are fully recouped. After June 30, 2024, Eligible Royalties shall (a) not be applied against any remaining unrecouped Advances and (b) be paid to ESAUT as if the Advance has been

fully recouped. Notwithstanding the foregoing, (x) Bank shall no longer be obligated to pay any additional Advances to ESAUT hereunder, and (y) ESAUT hereby promises to pay Bank upon demand an amount equal to the difference between the total amount of the Advance(s) paid by Bank and the total amount of accrued Royalties credited by Bank against such Advance(s) as of the date of such demand, in the event any of the conditions set forth in Clauses (i) through (iv) below should occur:

- (i) the Agreement is terminated prior to the end of the Initial Term as stated in this Agreement as of the Effective Date;
- (ii) ESAUT breaches any of its obligations under this Agreement;
- (iii) Bank is prohibited or otherwise prevented from conducting at least six (6) direct mail campaigns to the full updated Marketing List during each consecutive twelve (12) month period during the Term; and
- (iv) Bank shall not be prohibited from conducting promotion campaigns at major ESAUT events during each consecutive twelve (12) month period during the Term.

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

F. **ROYALTY GUARANTEE**

ESAUT shall be guaranteed to accrue Eligible Royalties (including the amount of the Advances) equal to or greater than three million seven hundred fifty thousand dollars (\$3,750,000.00) (the ***"Guarantee Amount"***) by June 30, 2024, subject to the provisions set forth below. If on June 30, 2024 ESAUT has not accrued \$3,750,000.00 in Eligible Royalties, Bank will pay ESAUT an amount equal to the Guarantee Amount minus the sum of all Royalties (but excluding those Royalties that accrue and are payable pursuant to Sections A.4, B.4, and C.4 of Schedule A) accrued by ESAUT during the Term and all unrecouped Advances. Notwithstanding the foregoing, this Royalty Guarantee and any obligation of Bank hereunder shall be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection E.1., above.

Return this form to:
Bank of America
ATTN: Accounts Payable – ESAUT Management
125 DuPont Drive
Providence, RI 02907
Mailcode: RI1-121-01-30
Telephone: 888.550.6433
Fax: 704-719-5191

Exhibit 1
Defined terms and Rules of Interpretation

Defined Terms. For the purposes of this Agreement, the following capitalized terms have the meanings set forth below, whether used in the plural or singular, in any tense or part of speech, and regardless of gender. Other terms defined herein have the meanings given to them where they are defined.

“Activated Account” means a Credit Card Account which remains open for at least 90 consecutive days and that is used by the Customer within the first 90 consecutive days of its opening for at least one purchase or cash advance that is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.

“Accountholder Information” means any information relating to a Customer, a Credit Card Account, the Bank, or the Program that Bank furnishes or causes to be furnished to ESAUT.

“Accountholder List” means a list of Accountholder Information (including anonymized or aggregated Accountholder Information). Accountholder List includes any whole or partial copies, derivations, or compilations of an Accountholder List in any form or any medium, any information derived solely or in combination with other information from an Accountholder List, and all Accountholder Information.

“Affiliate” means, with respect to any entity or organization, any other entity or organization directly or indirectly controlling, controlled by, or under common control with such entity or organization. The term “controlling,” “controlled by” and “under common control with” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies, whether through the ownership of voting securities, by contract or otherwise.

“Agents” has the meaning ascribed to such word in Section 7(b).

“Agreement” means this agreement, Exhibit 1, and Schedules A through C, as may be amended or supplemented from time to time.

“Applicable Law” means, with respect to a Person any applicable: (i) federal, state, or local law, ordinance, statute, treaty, rule, judgment, regulation, regulatory bulletin or guidance, regulatory examinations, licensing requirements, agreements, formal direction, or orders including judicial or administrative interpretations of any of the foregoing; (ii) regulations, by-laws and rules of self-regulatory organizations; (iii) rule, regulation, restriction, requirement or contractual term of VISA, MasterCard, American Express or other card network; and, (iv) orders, consent decree, determinations or findings of, or agreements with, any arbitrator, court or other Governmental Authority applicable to, or binding upon, a Party or to which such Party is subject.

“Credit Card Account” means an open-end consumer credit account opened pursuant to the Program that is accessed utilizing a card, plate and/or any other device or instrument.

“Credit Card Program” means those credit card programs and services, and the promotion thereof, Bank agrees to offer pursuant to this Agreement to the Members from time to time.

“Customer” means any Member who is a participant in the Program.

“Deposits” means consumer deposit products such as money market deposit accounts, certificate of deposit accounts, checking and savings accounts, checking accounts with debit card access and money market deposit account and certificate of deposit account individual retirement accounts.

“Deposit Account” means a consumer deposit account opened pursuant to the Program.

“Deposit Program” means those Deposits and related programs and services, and the promotion thereof, Bank agrees to offer pursuant to this Agreement to the Members from time to time.

“ECOA” means the Equal Credit Opportunity Act (15 U.S.C. §1691 *et. seq.*) and its implementing regulation, Regulation B (12 C.F.R. Part 1002), as each are amended.

“Effective Date” has the meaning given such phrase in the preamble.

“Eligible Royalties” means all Royalties that accrue and are payable under Schedule A of the agreement, excluding those Royalties that accrue and are payable pursuant to Sections A.4, B.4, and C.4 of Schedule A.

“ESAUT Affiliate” means any Affiliate of ESAUT. For purposes of this Agreement, University shall not be considered an Affiliated of ESAUT.

“ESAUT Marketing Effort” has the meaning ascribed to such phrase in Subsection 10(a).

“ESAUT Reward Account” means, with respect to a Credit Card Account, the account opened pursuant to ESAUT Rewards and the Terms and Conditions and associated with such Credit Card Account.

“ESAUT Rewards” has the meaning ascribed to such phrase in the Recitals.

“ESAUT Activities” means any duties or obligations of, or undertaken by, ESAUT (including such services further delegated to or undertaken by any Subcontractor (including its and their respective Representatives) pursuant to this Agreement or in furtherance of the Program (including ESAUT Marketing Efforts).

“ESAUT Trademark” means any design, emblem, image, visual representation (including any font), logo, service mark, trade dress, trade name, or trademark and other indicia of origin of ESAUT or its Affiliates and any variation thereof and any translation of any of the foregoing used or acquired by ESAUT or any ESAUT Affiliate prior to or during the Term as set forth in Schedule C. ESAUT Trademarks shall not include any University Trademarks.

“Event” has the meaning ascribed to such word in Subsection 11(e).

“Financial Service Product” means the products offered in the Credit Card Program and the Deposit Program, or the functional equivalent of both, and any other financial service program or product as mutually agreed upon by Bank and ESAUT.

“GIP Account” means a Credit Card Account opened pursuant to a GIP in which ESAUT complies with the GIP provisions of this Agreement.

“Group Incentive Program” or **“GIP”** means any credit card marketing or program whereby ESAUT conducts and funds solicitation efforts for credit card products offered under the Program, and the Parties mutually agree that such marketing or other program shall constitute a GIP.

“GLBA” refers to the Gramm-Leach-Bliley Act and its implementing regulation, Regulation P (12 C.F.R. 1016.1 et. seq.), as each may be amended from time to time and includes, when effective, the framework that replaces the Department of Commerce International Safe Harbor Privacy Principles.

“Governmental Authority” means, with respect to any Person, any nation or government, any State or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any court or arbitrator having jurisdiction over such Person. With respect to the Bank, Governmental Authority includes the Bureau of Consumer Financial Protection (a/k/a Consumer Financial Protection Bureau) and the Office of the Comptroller of the Currency.

“Governmental Entity” means any federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign.

“Information” has the meaning ascribed to such word in Section 7(a) and shall be deemed to include Nonpublic Personal Information.

“Impact” has the meaning ascribed to such word in Subsection 5(d).

“Marketing List” means an updated and current list (in a format acceptable to Bank) containing non-duplicate names, with corresponding valid postal addresses and, when available, telephone numbers (including area codes) and e-mail addresses of all Members who are at least eighteen years of age, segmented by zip codes or other mutually selected membership characteristics.

“Member” means a member, customer, or prospective member of ESAUT and/or other potential participants mutually agreed to by ESAUT and Bank.

“Net Retail Spend” means with respect to a Credit Card Account, as of a given date of determination and for a given period of time during the Term, the aggregate retail purchases (in U.S. dollars) debited to a Credit Card Account, net of: (i) transactions that relate to refunds, returns and/or unauthorized transactions; (ii) transactions that are cash advances or equivalents (e.g., bank cash advances, direct deposit cash advances, wire transfers, balance transfers, access checks, the purchase of wire transfers, person to person money transfers, money orders, bets, ATM withdrawals, off-track wagers, lottery tickets or transactions, casino gaming chips, or crypto-currencies); and/or (iii) Credit Card Account fees, costs and charges (e.g., balance transfer fees, finance charges, late fees, overlimit fees, annual fees, returned check, cash advance transaction fees, credit insurance premiums, debt cancellations charges, non-product or service-related transactions).

“Nonpublic Personal Information” has the meaning ascribed to such phrase in 12 C.F.R. §1016.3(p)(1) and shall be deemed to include Accountholder Information; all of which shall also be deemed the Bank’s Information. Nonpublic Personal Information includes any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available such as the fact that such consumers are Customers.

“Party” or **“Parties”** has the meaning ascribed to each word in the preamble.

“Person” means and includes an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, other business entity or a Governmental Entity (including any department, agency or political subdivision thereof).

“Premium Reward Account” means a Credit Card Account carrying a Premium Reward Enhancement.

“Premium Reward Enhancement” means a premium Reward Enhancement as provided through Bank and offered as part of the Program. A Premium Reward Enhancement may be marketed under a name (*e.g.*, BankAmericard Cash Rewards™), as determined by Bank from time to time, in its sole discretion.

“Premium Reward GIP Account” means a Premium Reward Account opened pursuant to a GIP in which ESAUT complies with the GIP provisions of this Agreement.

“Program” means those programs and services, and the promotion thereof, of those Financial Service Products Bank offers pursuant to this Agreement to the Members from time to time.

“Program Trademarks” means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark developed either jointly or by either Party (including its Affiliates) during the Term and used to promote or identify products or services offered by Bank through the Program. Program Trademarks may but need not necessarily consist of one or more ESAUT Trademarks, with or without other elements.

“Representative” means, with respect to a Person, any employee, officer, director, or agent of such Person. In the case of a partnership, Representative also includes general and limited partners thereof. In the case of a limited liability company or corporation, Representative also includes members of such company or corporation.

“Reward Account” means a Credit Card Account carrying a Reward Enhancement.

“Reward Enhancement” means a reward enhancement as provided through Bank and offered as part of the Program. A Reward Enhancement may be marketed under a name (*e.g.*, World Points), as determined by Bank from time to time, in its sole discretion.

“Reward GIP Account” means a Reward Account opened pursuant to a GIP in which ESAUT complies with the GIP provisions of this Agreement.

“Royalties” means the compensation designated as such and set forth in Schedule A.

“Term” has the meaning ascribed to such word in Subsection 8(b).

“UDAP” means any unfair, deceptive act or practice as informed by Section 5 of the Federal Trade Commission Act, as amended.

“UDAAP” has the same meaning ascribed the phrase “unfair, deceptive, or abusive act or practice under Federal law” as used in the Dodd-Frank Act, §1031, codified at 12 U.S.C. § 5531, as amended.

“University” means The University of Texas System, including The University of Texas at Austin and any office or department of, or affiliated or associated with The University of Texas at Austin, including the athletic department and the office of student affairs of The University of Texas at Austin.

“University Trademarks” means any design, image, visual representation (including any font), logo, service mark, trade dress, trade name, or trademark used or acquired by the University during the Term.

Rules of Interpretation. Except as otherwise expressly provided in this Agreement, the following rules shall apply:

- the singular includes the plural and the plural includes the singular;
- “or” is disjunctive, but not necessarily exclusive, except where clearly indicated by the context;
- “and” is conjunctive only;
- “include” and “including” are not limiting;
- “any” means “any or all”;
- a reference to any agreement or other contract includes any permitted modifications, supplements, amendments and replacements;
- a reference in this Agreement to a Section, Schedule or Exhibit is to the Section of or Schedule or Exhibit to this Agreement unless otherwise expressly provided (for example, where a particular Section, Schedule or Exhibit is the intended reference);
- a reference to a Section or paragraph in this Agreement shall, unless the context clearly indicates to the contrary, refer to all sub-parts or sub-components of any said Section or paragraph;
- “hereunder,” “hereto,” “hereof,” and “herein,” and other words of like import shall, unless the context clearly indicates to the contrary, refer to the whole of this Agreement and not to any particular clause hereof;
- “days” means calendar days unless otherwise noted through the use of the phrase “Business Days”;
- to the extent this Agreement requires the mutual agreement, approval or consent of any matter by either or both Parties hereto, unless the text clearly indicates to the contrary, such agreement, approval or consent shall be granted or denied in such Party’s reasonable business judgment;
- to the extent this Agreement requires the agreement, approval or consent of one Party or the other, unless the text clearly indicates to the contrary, such agreement, approval or consent shall not be unreasonably withheld, conditioned or delayed;
- text enclosed in parentheses has the same effect as text that is not enclosed in parentheses;
- any reference made in this Agreement to a statute or statutory provision shall mean such statute or statutory provision as it has been amended through the date as of which the particular portion of this Agreement is to take effect, or to any successor statute or statutory provision relating to the same subject as the statutory provision so referred to in this Agreement, and to any then applicable rules or regulations promulgated thereunder, unless otherwise provided;
- unless the context otherwise requires or unless otherwise provided herein, all references in this Agreement to a particular agreement, instrument or document also shall refer to all schedules or exhibits, renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document;
- references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; and,
- any payment that otherwise would be due on a day that is not a Business Day shall be deemed to be due on the first Business Day thereafter.