

## **AFFINITY ROYALTY LICENSING AGREEMENT**

THIS AGREEMENT, to be effective the 1st day of June, 2021 (the "Effective Date") by and between Wichita State University Alumni Association, Inc., a not-for-profit association having its principal office at 1845 Fairmount Street, Wichita Kansas 67260 and INTRUST Bank, N.A., a national association, having its principal offices at 105 N. Main, Wichita, Kansas 67202 ("IB").

### **RECITALS:**

WHEREAS, IB desires to make available its consumer and business credit card(s) and consumer debit cards issued in association with various card networks of IB's choosing from time to time, which may include Visa, MasterCard, and American Express, convenience checks, and related services (hereinafter referred to as "Credit Card(s)," "Debt Card(s)," or collectively "Card(s)") to the Group's membership, which include alumni, officers, directors, employees, friends, faculty, staff members of Wichita State University, and its officers, directors, and employees ("Members"); and

WHEREAS, Group is willing to allow IB to use certain of Group's proprietary intellectual property for IB's offering of Cards to and among the Members subject to the terms and conditions hereinafter contained.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### **1. License to Use Marks.**

(a) During the term of this Agreement, IB shall have the right and license to use the current and future respective name, mascot, trademarks, service marks, copyrights, logos, and film or likenesses of mascot of the Group or to which the Group has rights (collectively the "Marks") solely in connection with the marketing, issuing, and servicing of Cards and revolving lines of credit to Members under this Agreement throughout the United States (the "Affinity Program"). Examples of Group's current Marks are set forth in Exhibit A attached hereto. Such right and license is restricted to the products and services described herein and shall not apply or extend to any other product or service offered by IB. Group hereby agrees that the Marks may be used on all Affinity Program materials, associated forms, and disclosures. Group and IB agree that IB will only issue Card products bearing the Marks pursuant to this Agreement, unless otherwise mutually agreed in writing by IB and Group. Except for amounts paid to Group pursuant to Paragraph 5, IB shall not be required to pay any additional amounts to Group, or on account of Group, in connection with the use of the Marks in conjunction with this Affinity Program.

(b) Subject to the foregoing, Group is and shall remain the owner or licensee of all rights in and to the Marks, including all rights in and to any copyright, trademark, service mark and/or like rights pertaining thereto. Any and all rights to Group's Marks not herein specifically

granted and licensed to IB are reserved to Group. Except as otherwise specifically provided for in Paragraph 10(e) hereof, upon the termination of this Agreement, all rights conveyed by Group to IB with respect to the use of Group's Marks shall cease, and all such rights shall revert to Group. Upon termination of this Agreement, IB shall have no further right to market its Card products using the Group Marks or to further utilize any promotional materials containing the Group Marks.

2. Mailing Lists.

(a) Group shall provide IB with lists of the Group Members eighteen (18) years of age and older, including names and the preferred Member addresses, via media and in a format reasonably required by IB (the "Lists"). Group shall provide IB with updated Lists upon request from IB from time to time. If IB desires to undertake a campaign that requires telephone numbers, Group will provide Member telephone numbers with the Lists for use only during that campaign. If IB desires to undertake a campaign that requires email addresses, Group will provide Member email addresses with the Lists or Group will email any campaign materials using its systems and Member email information. All Lists shall be provided to IB by Group at no additional costs to IB beyond that set forth in Paragraph 5. Upon request, Group will provide additional demographic information to IB for purposes of promoting the Affinity Program. IB shall have the right to attend Group events free of charge for the purpose of soliciting Affinity Program applications; attendance at such events will be mutually agreed upon by IB and Group in advance.

(b) IB shall use the Lists and information provided by Group on a basis consistent with the intent and terms of this Agreement, i.e., to market and service Cards and the Affinity Program. IB and its sublicensees shall not rent, use or permit any third party to use such Lists for any other purpose. IB and its sublicensees shall not rent or otherwise make available such Lists to any third party (except for the purposes of fulfilling obligations under this Agreement) without the express written consent of Group. The Lists provided by Group are and shall remain the sole property of Group provided they have been provided to IB by Group at no expense to IB. IB may maintain separately all information which it obtains as a result of an account relationship or an application for an account relationship with any Group Member. This information becomes a part of IB's own files which shall not be subject to this Agreement and will not imply or suggest any endorsement by Group.

3. Offering of Cards by IB. IB may offer Cards to Members in accordance with the following provisions:

(a) Subject to subparagraph (c) of this Paragraph 3, IB may, at its own expense, design and develop such marketing, promotion and solicitation materials as it deems appropriate to promote the Affinity Program among Members, and the Group shall not unreasonably impede IB with the administration of such activities. IB shall schedule and direct the solicitation of Group Members. IB reserves the right to limit its solicitation materials to those persons determined in IB's and its sublicensee's discretion, including without limitation, those persons deemed by it to be creditworthy in accordance with IB's and/or its sublicensee's normal credit criteria and practices.

(b) Subject to federal, state and local laws and any other applicable industry rules and regulations, all approved accounts shall receive Credit Cards and/or Debit Cards, as may be applicable issued by IB. Group shall have the right to review the use of the Marks on the Cards for the sole purpose of protecting the goodwill associated with the Marks, such approval may not be unreasonably withheld or delayed. Except as expressly allowed herein, Group shall have no other right to design or participate in the design of the Cards.

(c) IB shall submit to Group, for its prior approval, samples of all acquisition marketing, promotional, or solicitation materials, printed or otherwise, which IB intends to utilize to promote the Affinity Program among Members, including promotional merchandise which may or may not bear the Marks used to incent individuals to apply for Cards. Group shall review such materials and respond to IB's request for approval on a timely basis. In addition, approval by Group of any marketing materials submitted by IB for review shall not be unreasonably withheld or delayed. If a response has not been received within fifteen (15) Business Days (any day in which IB is open for business), the submission will be deemed approved. Group shall review such materials only to protect the good will associated with the Marks. Once approved, IB has no obligation to submit the same or similar materials for Group's approval. IB further reserves the right to communicate information to the cardmember, which it normally sends its other cardmembers, and does utilize the Group's name or logo, without having to obtain the approval of Group. IB shall have the right to offer other financial products to Members.

(d) Other than Group's general promotional activities as specified in this Agreement, neither Group nor its officers, directors, employees, or agents will engage in any direct solicitations or marketing related to the Affinity Program or Cards.

#### 4. Issuance of Cards.

(a) For Credit Cards, all credit decisions, including but not limited to, the initial approval of accounts, the establishment of credit lines and the closing of accounts shall be within the exclusive discretion of IB.

(b) Cards issued by IB and its sublicensees pursuant to the Affinity Program shall be governed by terms of cardmember agreements to be entered into between Members and IB. Notwithstanding any other limitations contained in this Agreement, IB shall have the right to amend such cardmember agreements at any time in accordance with applicable law, including without limitation, the applicable annual percentage rate (APR).

(c) Group shall not possess any ownership interest in Cards issued and accounts accessible through use of Cards (collectively the "Accounts"). In addition, any and all outstanding balances with respect thereto (including, without limitation, all amounts owing for the payment of goods and services, periodic finance charges, late and other charges) and all records developed and retained by IB in connection therewith, shall be the sole property of IB or its assigns and Group shall have no rights or interests therein.

5. Royalties.

(a) In consideration of the use of the Group's Marks and Lists, subject to the terms and conditions of this Agreement, IB shall pay to Group an amount equal to twenty-two percent (22%) of the interchange income earned on Net Purchase transactions by Credit Card members and received by IB from its sublicensee for which it was earned for each month (or portion thereof) during the term of this Agreement ("Royalties"). "Net Purchase" means the dollar value of the purchases charged to a then-current credit Accounts during the applicable period, excluding transactions other than purchases (such as cash advances, convenience checks, and balance transfers) net of the dollar value of any chargebacks, refunds, purchase returns, and credits for purchases (other than payment credits).

(b) IB will pay Royalties to Group by the 20th day of month (or, if the 20th day of such month is not a Business Day, the next Business Day thereafter) following the month in which Royalties are earned. Contemporaneous with the payment of Royalties, IB shall provide Group with a monthly reconciliation report. Group shall have the right upon reasonable notice to IB to have Group's outside auditors review IB's books and records related to the reconciliation reports to confirm their accuracy.

(c) IB may off-set or set-off from any payment to Group any amounts that Group may owe IB for any reasons, whether under this Agreement, another agreement, or otherwise. IB reserves the right to collect and upon demand Group will pay IB the amount of Royalties paid to Group related to the dollar value of any chargebacks, refunds, purchase returns, or credits for purchases including within Net Sales in prior periods and not otherwise off-set by IB.

(d) For the avoidance of doubt, the royalty payment is for the use of the marks in connection with the marketing, issuing and servicing of all Cards, but the royalty payment is calculated solely upon the interchange income as defined in paragraph (a) above which is generated by the Credit Card program.

6. Relationship. Nothing in this Agreement is intended or shall be construed to constitute or establish an agency, joint venture, partnership or fiduciary relationship between the parties, and neither party shall have the right or authority to act for or on behalf of the other party.

7. Confidentiality. For the term of this Agreement and or a period of one (1) year following its termination for any reason whatsoever, IB and Group (including their respective officers, directors, employees, agents, and assigns) shall keep confidential any and all information obtained from the other party concerning the assets, properties, business services, clients, trade secrets, organizational structure, philosophy, objectives, marketing plans and materials, financial plans and results and other information relating to the other party (the "Confidential Information"), and shall not use such information (including without limitation this Agreement) for any purpose other than that purpose contemplated under this Agreement. Each party acknowledges the importance of maintaining the security and confidentiality of Confidential Information and agrees to take whatever measures are necessary to prevent the unauthorized or inadvertent transfer, disclosure, access or use of the other party's Confidential Information to or by any third party. Each party agrees to ensure that the terms and conditions of this Agreement are adhered to by all persons who

have access to the other party's Confidential Information through such party at any time, including employees, agents, and sublicensees. Each party shall be responsible for breaches of confidentiality by its own employees, agents and other parties who gain access to information through such recipient party. Each party further agrees that if any of the other party's Confidential Information is disclosed by the recipient party's employees, agents, or sublicensees in violation of this Agreement, such recipient party will notify the disclosing party in writing of the unauthorized misrepresentation, disclosure or use and take all steps, at its own expense, reasonably necessary to enforce and to protect the disclosing party from additional disclosure and to remedy such misrepresentation, disclosure or use. The term Confidential Information, as used herein, does not include any information that (i) was lawfully in a party's possession prior to any disclosure by or on behalf of the other party, or (ii) becomes lawfully available to a party provided that the source of such information was not bound by a confidentiality agreement with or for the benefit of the other party, or (iii) is generally available to the public other than as a result of disclosure in violation of this Agreement. Confidential Information shall be disclosed only to those parties that are actively and directly participating in the Affinity Program and who need to know such Confidential Information for the purpose of executing the Affinity Program, and each party shall use best efforts to inform the receiving party of the confidential nature of such Confidential Information and directed to keep such Information confidential. However, no party hereto shall be obligated to keep confidential any information which: (i) was marked by the other party "not confidential," (ii) was in the possession of the receiving party prior to this Agreement; (iii) was lawfully obtained from a third party; or (iv) is required to be disclosed pursuant to applicable legal and/or regulatory requirements.

8. Representations and Warranties.

(a) IB represents and warrants that:

(i) It is a national association duly organized, validly existing and in good standing under the laws of the United States of America; and

(ii) The execution and delivery by IB of this Agreement, and the performance by IB of the transactions contemplated hereby, are within IB's banking authority, have been duly authorized, do not require any consent or other action by any third party or governmental body or agency (other than informational filings required by the applicable card network), and do not contravene, violate or conflict with, or constitute a default under, any provision of applicable law or regulation or of the Articles of Association or by-laws of IB or of any agreement, judgment, injunction, order, decree or other instrument binding upon IB.

(b) The Group represents and warrants that:

(i) It is a not-for-profit organization duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization.

(ii) The execution and delivery by Group of this Agreement, and the performance by Group of the transactions contemplated hereby, are within Group's powers, have been duly authorized by all necessary action, do not require any consent or other action by any

governmental body or agency, and do not contravene, violate or conflict with, or constitute a default under, any provision of applicable law, regulation, or under any governing documents, charter or bylaw, or any agreement, judgment, injunction, order, decree or other instrument binding on Group;

(iii) The use of the Marks and Lists by IB and its sublicensees as permitted by this Agreement will not infringe upon the trade name, copyright, trademark, or other intellectual property right of any third party; it is not currently aware of any claims, and is not currently involved in any litigation, challenging Group's proprietary interest and license in and to the Marks or Lists or their license to IB or use as permitted by this Agreement;

(iv) Unless expressly noted in the Lists, Group is subject to no obligation, whether under applicable law, contractual, or otherwise, that would restrict the use of the Lists by IB or its sublicensees from engaging in marketing, promotional, or solicitation activities under the Affinity Program;

(v) This Agreement and all exhibits attached hereto ("Exhibits"), have been validly executed by the parties thereto and represent binding agreements between the respective parties to each agreement.

#### 9. Release and Indemnification.

(a) IB shall not be responsible in any way for any misrepresentation, negligent act or omission or willful misconduct of Group, its affiliates, officers, directors, agents, or employees in connection with the entry into, or performance of, any obligation of IB under this Agreement. Group shall not be responsible in any way for any misrepresentation, negligent act or omission or willful misconduct of IB, its affiliates, officers, directors, agents, or employees in connection with the entry into, or performance of, any obligation of Group under this Agreement.

(b) IB shall indemnify, defend and hold Group harmless from and against all claims, actions, suits or other proceedings, and any and all losses, judgments, damages, expenses, or other costs (including reasonable counsel fees and disbursements), but excluding Excluded Damages, arising from or in any way relating to (i) any actual or alleged violation or inaccuracy of any representation or warranty of IB contained in Paragraph 8 above, (ii) any act or omission of IB in connection with the issuance of Cards and/or the administration of Card Accounts and (iii) any negligent act or omission or willful misconduct of IB or its directors, officers, employees, agents or assigns in connection with the entry into or performance of this Agreement.

(c) Group shall indemnify, defend and hold IB harmless from and against all claims, actions, suits or other proceedings, and any and all losses, judgments, damages, expenses or other costs (including reasonable counsel fees and disbursements), but excluding Excluded Damages, arising from or in any way relating to (i) any actual or alleged violation or inaccuracy of any representation or warranty of Group contained in Paragraph 8 above, (ii) any actual or alleged infringement of any trademark, copyright, trade name or other proprietary ownership interest resulting from the use by IB or its sublicensees of the Marks or Lists as contemplated by this Agreement, and (iii) any negligent act or omission or willful misconduct of Group or its directors,

officers, employees, agents, venture partners or assigns in connection with the entry into or performance of this Agreement.

(d) Except for specific types of damages stated elsewhere in this Agreement, neither party will be liable to the other party for damages for lost profits, exemplary, punitive, special, incidental, indirect, or consequential damages suffered by the other party, except for damages payable by a party owed indemnification under this Section 9 to a person not related to such party (collectively, “Excluded Damages”).

#### 10. Term and Termination.

(a) Subject to the provisions of subparagraphs 10(b), (c) and (d) below, performance under this Agreement shall commence as of Effective Date and shall continue until August 5, 2024 (the “Initial Term”). Thereafter, this Agreement shall be automatically renewed for successive annual periods thereafter (each a “Renewal Term”) unless (i) either party delivers a written notice of termination at least 180 days before the end of the Initial Term or the then-current Renewal Term of its intent not to renew the Agreement, or (ii) IB delivers a written notice of termination at least 60 days before the end of the Initial Term or the then-current Renewal Term of its intent not to renew the Agreement if IB had previously received notice from its sublicensee that such sublicensee will terminate its agreement with IB effective at the end of such Initial Term or Renewal Term.

(b) If there is a default or breach by either party in the performance of any term or condition of this Agreement (including any material misrepresentation by either party of any matter set forth in Paragraph 8 herein) and any such default or material misrepresentation in this Agreement shall continue for a period of sixty (60) days after receipt of written notice thereof (setting forth in detail the nature of such default or misrepresentation), then this Agreement shall terminate as of the 61st day following the receipt of such written notice at the option of the non-defaulting party. If the non-defaulting party does not elect to terminate this Agreement, the non-defaulting party may file suit for injunctive relief to require the defaulting party to comply with the terms of this Agreement.

(c) This Agreement shall be deemed immediately terminated, without the requirement of further action or notice by either party, in the event that either party shall become subject to voluntary or involuntary bankruptcy, insolvency, receivership, conservatorship or like proceedings pursuant to applicable state or federal law.

(d) In the event any material change in any federal, state or local law, statute, operating rule or regulation, or any material change in any operating rule or regulation of the applicable card network or in the terms and conditions of IB’s agreement with its sublicensee makes the continued performance of this Agreement under such changed terms and conditions unduly financially burdensome or legally prohibited, then IB shall have the right to terminate this Agreement upon 30 business days advance written notice. Such written notice shall include a detailed explanation as evidence of the burden imposed as a result of such change.

(e) Upon termination of this Agreement:

(i) Group shall promptly destroy all take-one and any other promotional materials that have been supplied by IB to Group and are still in Group's possession;

(ii) All Accounts which have been opened pursuant to the terms hereof, together with all Accounts for which applications have been received but not yet processed by IB as of the effective date of such termination, shall remain the sole and exclusive property of IB, and Group has no right or option to purchase any such Accounts;

(iii) IB shall have the right, but not the obligation, to reissue Cards previously issued to Members pursuant to this Agreement and to issue Cards to applicants whose application are received after the effective date of such termination, in its own name and without any reference to Group or use of a Mark on such Cards. However, all Cards using a Mark must be converted at expiration, and until expiration or reissue, all Cards using a Mark may continue to use a Mark;

(iv) All obligations to Group shall cease after the effective date of such termination;

(v) If this Agreement is terminated before the completion of the Initial Term due to an uncured material default by Group, or due to a material misrepresentation by Group of subparagraph (b) or (c) above, or is terminated by Group without cause, Group shall immediately remit to IB all Affinity Program expenses incurred to date, not to exceed \$25,000.

(f) Except for Excluded Damages, nothing contained herein shall limit the remedies available to either Group or IB, including seeking monetary or equitable relief, in the event of a termination due to a violation of subparagraphs (b) or (c) above.

11. Exclusivity. During the term of this Agreement, (a) IB shall have the exclusive right to market and issue credit and debit cards bearing or using the Marks, and (b) Group agrees that it shall not by itself or in conjunction with others, directly or indirectly, or through any parent, affiliate or subsidiary, offer to endorse, or enter into any agreement with any other provider for the issuance or provision of any credit or charge card or debit card bearing the Marks to Members. Such credit or debit cards mean any credit or debit card associated with any card network, including but are not limited to, MasterCard, Visa, American Express, and Discover.

12. Non-Competition. With respect to all Accounts established pursuant to this Agreement, Group agrees that neither Group nor any entity which Group controls shall by itself or in conjunction with others, directly or indirectly, during the term of this Agreement, and for a period of one (1) year following the termination of this Agreement for any reason whatsoever, specifically make any offer of a credit or debit card or related services uniquely tailored for and limited to the individuals possessing an Account. The parties agree this non-competition clause, following termination of this Agreement, shall not prohibit Group and/or credit card provider with which it may contract from making any general offer for a credit or debit card or related services to all of its Members, which may include individuals with an Account, so long as such offer is not uniquely tailored for and limited to individuals possessing an Account.



13. Notices. Any and all notices of other communications required or permitted under this Agreement shall be in writing and shall be delivered either by personal delivery; by nationally recognized overnight courier service; or by certified or registered mail, return receipt requested, addressed as follows:

If to IB, to:

INTRUST Bank, N.A.  
Consumer Banking Division  
P.O. Box One  
Wichita, KS 67201  
Attention: Managing Director

If to Group, to:

Wichita State University Alumni Association, Inc.  
1845 Fairmount Street  
Wichita, KS 67260-0054  
Attention: President and CEO

or to such other person or address as either party shall have previously designated to the other by written notice given in the manner set forth above. Notices shall be deemed given one Business Day after sent, if sent by overnight courier; when delivered and receipted for, if hand delivered; or when receipted for (or upon the date of attempted delivery where delivery is refused) if sent by certified or registered mail, return receipt requested.

14. Entire Agreement and Amendment. This Agreement, including Exhibits, constitutes the entire understanding between the parties with respect to the subject matter, and supersedes all prior written and oral proposals, understandings, agreements and representations, all of which are merged herein. No amendment or modification of this Agreement shall be effective unless it is in writing and executed by all of the parties hereto.

15. Non-Waiver of Default. The failure of either party to insist, in any one or more instances, on the performance of any terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such term or condition, and the obligations of the non-performing party with respect thereto shall continue in full force and effect.

16. Assignment and Sublicensing.

(a) This Agreement may not be assigned by either party without the prior written consent from the other party, of which consent will not be unreasonably withheld.

(b) IB may sublicense and delegate all or part of its rights and obligations under this Agreement, including without limitation, the rights granted under this Agreement in the Marks and Lists, which sublicense and delegation may include performance of IB and its sublicensee under their agreement. Group will not be a beneficiary of or have any rights under the agreement between IB and its sublicensee, and Group will look solely to IB, including without limitation, for the

payment of any Royalties, and IB will be solely responsible for any breach of this Agreement caused by IB's sublicensee.

17. Account Terms. All account terms and conditions, including but not limited to, annual percentage rate, annual fee, and other fees, will be determined by IB in its sole discretion.

18. Severability. In the event that any provision of this Agreement shall, for any reason, be deemed to be invalid and unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

19. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Kansas.

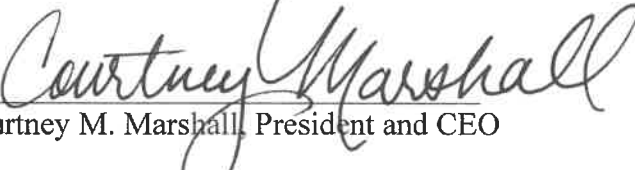
20. Merchant Services. IB has the right to bid for merchant services provided to the Group.

21. Procurement Card Services. IB has the right to bid for commercial procurement card services provided to the Group.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Effective Date.

Wichita State University Alumni Association, Inc.

By

  
Courtney M. Marshall, President and CEO

INTRUST Bank, N.A.

By

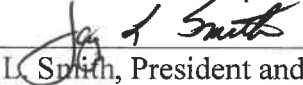
  
Jay L. Smith, President and Chief Operating Officer

Exhibit A

**Marks**

[To be provided by affinity partner.]