

## CO-BRANDED CARD AGREEMENT

**THIS CO-BRANDED CARD AGREEMENT** (the "**Agreement**") dated as of April 8, 2013 that **UMB Bank, n.a. ("Bank")** is making available to National Student Nurses Association, Inc., a Non-profit organized under the laws of the District of Columbia, with an office and principal place of business in the City and State of New York ("**you**", "**your**" or the "**Company**"), and includes the contractual provisions governing the Program. By signing this Agreement, each of the Parties agrees to be bound by the terms and conditions in this Agreement.

**Summary.** The Program enables members of Company and other interested members of the general public to apply for Cards issued by the Bank. The Card and certain other Program marketing materials may include images and logos selected by you that promote the Company and the benefits to the Program to your Members. You benefit through the payment by Bank to you of the Rewards as described below.

**Agreement.** In consideration of the mutual agreements, terms, covenants, representations and warranties in this Agreement and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, the Parties each agree as follows:

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, including the preamble hereto (except where the context otherwise requires), the words and expressions beginning with capital letters shall have the meanings given to them in the Glossary below.
- 1.2 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement, and any references to this Agreement include the Schedules. If there is a material conflict between the body of this Agreement and any Schedule, the provisions in the body of the Agreement shall control.

### 2. BANK'S RIGHTS AND OBLIGATIONS

- 2.1 Bank will provide the following services for Company under this Agreement:
  - 2.1.1 construct, host and maintain a Hosted Website, which will include your Company Content and will allow your Members to obtain information about the benefits of the Cards via a link from Your Website;
  - 2.1.2 provide a link from the Hosted Website to the Bank's Website, to allow applicants to apply for Cards;
  - 2.1.3 provide you with Bank Authorized Materials and marketing advice from time to time to help you optimize the success of the Program;
  - 2.1.4 pay to you the Rewards in accordance with Section 3;
  - 2.1.5 if set forth in Schedule 1 to this Agreement, provide the Cardholder Rewards to Cardholders who participate in the Program in the manner set forth therein; and

- 2.1.6 if Schedule 2 is attached to this Agreement, provide you with Card Customization Services as set forth therein.
- 2.2 Bank shall underwrite, establish, maintain and service Applications and Accounts in accordance with Bank's credit criteria, policies and procedures and Cardholder Agreement, as the same may be amended from time to time at Bank's sole discretion, but at all times in accordance with all applicable laws and regulations, and in a manner which is not materially different from or materially less favorable than the manner in which Bank deals with all similar card applications and accounts.
- 2.3 Bank shall issue Cards under this Program only to residents of the United States.
- 2.4 You acknowledge that Bank and Card Association have the right to approve the use of Company Content in connection with the operation of the Program (at each entity's sole discretion). Bank reviews Company Content prior to the commencement of the Program and periodically throughout the Term to ensure that such Company Content meets the requirements of this Agreement, including the limitations set forth in Section 4.7. Bank has the right to terminate this Agreement immediately upon written notice if Bank determines, in its reasonable discretion, that use of any Company Content in connection with the Program is likely to significantly tarnish Bank's or the Card Association's image and/or cause substantial harm to Bank's or the Card Association's Intellectual Property Rights, and Company fails to take such action as Bank reasonably requires to remedy such non-conforming use.

**3. REWARDS TO BE PAID BY BANK TO YOU**

- 3.1 In consideration of your participation in the Program and the performance of your other obligations under this Agreement, the Bank shall pay you the Rewards set forth in Schedule 1 hereto.
- 3.2 Payments of Rewards by Bank to you shall be made in immediately available funds not later than the Due Date following the end of each Quarter, via automated clearinghouse credit to a deposit account that you specify, or by such other substitute payment method chosen by Bank upon notice to you.
- 3.3 All amounts referred to in this Agreement shall be paid in US Dollars. You are responsible for any taxes payable on the amount of your Rewards.
- 3.4 During the term of this Agreement, the Bank agrees that it will maintain complete and accurate records with respect to the Program(s) and participation of members therein, and such records will be made available for inspection at the offices of the Bank by representative(s) of NSNA, at reasonable times and on reasonable prior notice by NSNA, provided that any such inspection shall be subject to such security procedures as the Bank may reasonably require under applicable rules, regulations or statutes governing the conduct of the Bank's business. The Bank agrees to provide quarterly reports of all activity under the Program(s), together with the quarterly payment of Rewards in accordance with Section 3.2.

4. **YOUR OBLIGATIONS**

- 4.1 You agree to provide a link from Your Website to the Hosted Website to allow your Members to obtain information about the Program and to apply for Cards.
- 4.2 Subject to Section 4.5, you shall use commercially reasonable efforts to promote the Program to your Members, taking into account Bank's advice and recommendations in respect thereof, as Bank may advise you from time to time. Furthermore, you agree to ensure that an image banner advertisement containing a URL link to the Online Card Application Page on the Hosted Website (as contained in the Program Marketing Tool Kit) is displayed on Your Webpage homepage for the duration of the Term.
- 4.3 You acknowledge and agree that Bank shall own each Account and that Bank is responsible for extending credit with respect to each Account. You shall not be considered to be a creditor on any Account for any purpose whatsoever, and, except with respect to any Company-supplied Cardholder Rewards as may be set forth in Schedule 1 hereto, you shall have no obligation with respect to any Account. You shall have no rights in the Accounts.
- 4.4 You agree to provide to the Bank the Company Content necessary to offer the Program during the Term.
- 4.5 You agree that you will only use Bank Authorized Materials in connection with the promotion, advertisement or marketing of the Program. You will make no modifications to the Bank Authorized Materials except as are expressly approved by Bank.
- 4.6 You acknowledge and agree that, subject to complying with any applicable Privacy Rules, Bank may contact Members who have submitted Applications with marketing materials and other information relating to the Bank's other products.
- 4.7 You warrant and represent that your Company Content does not include any of the following material:
- 4.7.1 the trade names, logos, slogans or other identifying indicia of competitors of the Card Association through which the Cards are issued under the Program;
  - 4.7.2 political statements (e.g. Neo-Nazi, Pro-Life, etc.);
  - 4.7.3 advertising or promotional material other than that for which you own or are licensed to use all applicable Intellectual Property Rights;
  - 4.7.4 branded products, other than those for which you own or are licensed to use all applicable Intellectual Property Rights;
  - 4.7.5 any copyright image, other than one which you own or are licensed to use;
  - 4.7.6 any trade mark, other than one which you own or are licensed to use;
  - 4.7.7 the names or likeness of foreign or U.S. celebrities that are recognizable by the average person in the United States;
  - 4.7.8 phone Numbers and URL addresses, other than those associated with the Company;

- 4.7.9 socially unacceptable groups (e.g. gangs, supremacy, etc.);
- 4.7.10 provocative or sexual content;
- 4.7.11 violent content;
- 4.7.12 profane or obscene content; or
- 4.7.13 content making reference to the Olympic Games or associated events.

Bank retains the right to require you to provide the Bank with reasonable evidence of your license to use materials that could fall within Sections 4.7.3 through 4.7.7 and 4.7.13, if you wish to include such materials within your Company Content.

## **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 Subject to the Bank's obligation to pay you the Rewards referenced in Section 3 of this Agreement, you grant each of the Bank and the Card Association during the Term an irrevocable, non-transferable, non-exclusive, royalty-free, world-wide limited license to use the Company Content for the purpose of procuring the Application for, the manufacture of, and issuing and maintaining each relevant Card, for the inclusion of such Company Content on the Hosted Website and/or the pertinent portions of the Bank Website, in the Bank Approved Marketing Materials and other marketing materials specifically approved by Bank, and as otherwise contemplated in connection with the Program; provided, however, that notwithstanding any earlier termination of this Agreement, the license granted to Bank to use the Company Content on a Card issued to your Customers shall not expire until the expiration date of each such Card previously issued to a Customer. Notwithstanding anything to the contrary herein, the license granted to the Bank does not include any right to divide or sublicense, and Bank agrees that it will not register or attempt to register the Company's Intellectual Property or its Brand Features (as defined herein) in its own name or in the name of any other person or entity.
- 5.2 You warrant to each of Bank and the Card Association that you own or are licensed to use the relevant Intellectual Property Rights in all Company Content for the purposes of procuring Applications for, the manufacture of, and issuing and maintaining each relevant Card, for the inclusion of such Company Content on the Hosted Website and/or the Bank Website, in the Bank Authorized Materials and other marketing materials specifically approved by Bank, and as otherwise contemplated in connection with the Program.
- 5.3 Upon the approval by Bank of your participation in the Program, Bank grants to you during the Term an irrevocable, non-transferable, non-exclusive, royalty-free, world-wide license to use certain of Bank's trade marks (whether registered or unregistered), service marks, logos and other distinctive brand features typically used by Bank in connection with the Program, including their look, form, feel and substance strictly and solely for the purposes of marketing and promoting the Program using Bank Authorized Materials and other marketing materials specifically approved by Bank in accordance with this Agreement, and for no other purpose. Bank warrants to you that Bank owns or is licensed to use the relevant Intellectual Property Rights in all trade marks, service marks, logos and other distinctive brand features supplied by Bank in connection with the Program.
- 5.4 Nothing in this Agreement shall confer on either Party any right of ownership in the Intellectual Property Rights owned or licensed by the other Party.

**6. WARRANTIES AND INDEMNITIES**

**6.1 Bank warrants to you that:**

- 6.1.1 it will perform its obligations under this Agreement with reasonable skill, care and diligence; and
- 6.1.2 in performing its obligations under this Agreement, it will comply with all applicable statutes and regulations applicable to its role as Card-issuing Bank and creditor, including the Privacy Rules.

**6.2 You warrant to Bank that you shall:**

- 6.2.1 perform your obligations under this Agreement with reasonable skill, care and diligence;
- 6.2.2 perform your obligations under this Agreement in compliance with all statutes and regulations applicable to you; and
- 6.2.3 not share, recompile, decompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, any software or hardware contained in the Hosted Website or the Bank's Website or furnished by the Bank in connection with the Program.

**6.3 Each Party warrants to the other Party that:**

- 6.3.1 it is duly organized, validly existing and in good standing under the laws of the state where it was organized and in each state in which it does business;
- 6.3.2 no consent, approval or authorization from any third party is required in connection with its execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect as of the Effective Date;
- 6.3.3 it has the right, power and authority to perform its obligations under, and to enter into, this Agreement; and
- 6.3.4 it shall cooperate with the other Party in the performance of this Agreement at all times in good faith.

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

- 6.4.1 any grossly negligent or willful acts or omissions by you related to the Accounts or to this Agreement;
- 6.4.2 an irremediable breach by you of this Agreement, or failure to remedy a remediable such breach within 30 days of notice from Bank to do so;
- 6.4.3 any breach of the warranty and agreement you make in Section 5.2 and Section 6.2.3; or

- 6.4.4 any use by you, your Affiliates, agents or representatives of any Bank Intellectual Property Rights granted by Bank pursuant to Section 5.3 hereof or of the Bank Authorized Materials other than in accordance with the terms and conditions of this Agreement.
- 6.5 Bank shall indemnify, hold harmless, and defend Company, its Affiliates and its personnel from and against any and all Losses incurred by any of them in connection with, or which arise out of, or result from or are based upon:
  - 6.5.1 any grossly negligent or willful acts or omissions by Bank related to the Accounts or to this Agreement;
  - 6.5.2 an irremediable breach by Bank of this Agreement, or failure to remedy a remediable such breach within 30 days of notice from you to do so;
  - 6.5.3 any breach of the warranty and agreement Bank makes in Section 5.3; or
  - 6.5.4 any use by Bank, its Affiliates, agents or representatives of any Company Content other than in accordance with the terms and conditions of this Agreement.

## 7. TERM AND TERMINATION

- 7.1 This Agreement shall commence on the Effective Date and shall continue in full force and effect for the Initial Term as set forth in Schedule 1 hereto (the "**Initial Term**"), unless renewed or terminated earlier pursuant to the following provisions of this Section 7.
- 7.2 Upon expiration of the Initial Term, this Agreement shall renew for successive one (1) year renewal periods (each, a "**Renewal Period**") on the same terms and conditions, without further notice from one Party to the other, unless terminated by either Party by notice served not less than ninety (90) days prior to the expiration of the Initial Term or the then current Renewal Period.
- 7.3 Either Party may by notice terminate the Agreement if the other Party is in default of any material obligation under this Agreement and either:
  - 7.3.1 the default is not capable of remedy; or
  - 7.3.2 the default is capable of remedy and the defaulting Party shall have failed to remedy the default within thirty (30) days of notice to the defaulting Party specifying the default and requiring its remedy.
- 7.4 Either party shall have the option to terminate this Agreement upon one hundred and eighty (180) days written notice to the other without cause.
- 7.5 If either Party becomes insolvent in that its liabilities exceed its assets, it is adjudicated insolvent, or files for or is subject to any insolvency, bankruptcy or reorganization proceeding (excluding any involuntary petition dismissed or discharged within sixty (60) days of filing), it makes an assignment for the benefit of creditors prior to bankruptcy, it is unable to meet or has ceased paying its obligations as they generally become due, or it applies for or is subject to receivership, trusteeship, conservatorship or liquidation, then the other Party may immediately terminate this Agreement.

- 7.6 If there is a change in the General Requirements of Law and either Party reasonably concludes that this Agreement cannot be performed without violating such General Requirements of Law as so modified, or if the application of such modified General Requirements of Law will impose material and additional costs on such Party that such Party reasonably determines cannot be avoided by such Party, the Party affected by the change shall have the right to provide the other Party prompt notice hereof. The notice shall include a detailed explanation of such change and evidence of the illegality or material, additional and reasonably unavoidable costs imposed as a result of such change. Within thirty (30) days of such notice, the Parties will begin to negotiate in good faith to modify this Agreement to the extent necessary to ensure that the Parties will be in full compliance with all applicable General Requirements of Law. In the event that any change in General Requirements of Law make the continued performance by either Party under the then-current terms and conditions of the Program illegal, and the parties are unable to agree upon modifications to this Agreement within ninety (90) days of such notice, then either Party will have the right to terminate this Agreement without penalty, upon the earlier to occur of (i) the ninetieth (90<sup>th</sup>) day after written notice of the change has been given, or (ii) the effective date of any change in General Requirements of Law that would make the continued performance illegal. In the event that any change in General Requirements of Law imposes material, additional and reasonably unavoidable costs on either Party, and the Parties are unable to agree upon modifications to this Agreement within ninety (90) days of such notice, then either Party will have the right to terminate this Agreement without penalty, at any time after the expiration of the ninetieth (90<sup>th</sup>) day after such written notice of change, upon thirty (30) days written notice of termination.
- 7.7 Termination of this Agreement shall be without prejudice to any rights or obligations which shall have accrued prior to such termination.
- 7.8 Upon the termination of this Agreement:
- 7.8.1 you acknowledge and agree that Bank shall continue to own the right, title and interest in and to each relevant Account;
- 7.8.2 you will not, within thirty (30) days after termination, solicit or assist a new Card provider that you may select to offer a Card program similar to the Program established under this Agreement to solicit applications from Customers who have opened Accounts with Bank to change their Card to one issued by the new Card issuer.
- 7.8.3 Bank shall:
- 7.8.3.1 notify each Cardholder that the Program is no longer associated with you. Such notice will be delivered in a format and manner consistent with Bank's ordinary practice in use at the time of the notice; and
- 7.8.3.2 promptly upon termination of this Agreement, Bank shall discontinue use of your Company Content on the Website and in any marketing materials related to the Program used by Bank, and shall cease to use your Company Content on any Bank Approved Materials; provided, however, that Bank shall not be required to reissue Cards that do not include your Company Content until the expiration of each such Card previously issued to a Customer.
- 7.8.4 you shall immediately:

7.8.4.1 cease to promote the Program;

7.8.4.2 cease to use any Bank Authorized Materials;

7.8.4.3 return or destroy (and in the latter case certify the destruction) of all Bank Authorized Materials previously provided to you by Bank.

7.9 The provisions of any term which by its nature should survive the Agreement shall survive termination of this Agreement.

## 8. LIMITATIONS OF LIABILITY

8.1 Subject to Section 8.3 and without prejudice to Section 7, the liability of either Party to the other Party for any Loss suffered by the other party arising out of or in connection with this Agreement and caused or contributed to by such Party (including, without limitation, by breach of contract or negligence) shall not in any circumstances exceed, in aggregate, One Hundred Fifty Thousand Dollars (US \$150,000).

8.2 Notwithstanding any other provision of this Agreement, but subject always to Section 8.3, neither Party shall under any circumstances be liable to the other Party or any other person for:

8.2.1 any Loss which is a loss of profit (other than Bank's obligation to pay you Royalties due under this Agreement), data, revenue, use, goodwill, reputation, anticipated savings, market or business and/or non-pecuniary in nature (in each case whether direct, indirect, special, consequential, or otherwise), in each case whatsoever and howsoever caused including, without limitation, by breach of contract or negligence; or

8.2.2 any Loss to the extent that it results from any failure or delay by such Party or any of its personnel to perform such Party's obligations under this Agreement.

8.3 Notwithstanding any other provision of this Agreement, nothing in this Agreement shall exclude or restrict your liability for a breach of Section 6.2.3 (Reverse Engineering) or the liability of either Party for Loss resulting from such party's indemnification obligations under this Agreement, willful default, a breach of Sections 10.1 to 10.3 (inclusive) (Confidentiality), or fraud or death or personal injury resulting from its own negligence, or for any other liability which may not by law be excluded or restricted.

8.4 TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ALL CONDITIONS, TERMS, REPRESENTATIONS (OTHER THAN FRAUDULENT REPRESENTATIONS) AND WARRANTIES, WHETHER IMPOSED BY STATUTE OR BY OPERATION OF LAW OR OTHERWISE, THAT ARE NOT EXPRESSLY STATED HEREIN, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.5 Each provision in this Section 8 shall be construed separately and shall continue and survive even if for any reason one or other of these provisions is held inapplicable or unenforceable in any circumstances.



9. **NOTICES**

9.1 Any notice given under this Agreement shall be in writing and shall be served by hand, delivered or sent postage prepaid, or fax to the address and for the attention of the relevant Party as set out in Section 9.2 (or as otherwise notified by that Party under this Section). Any such notice shall be deemed to have been received:

9.1.1 if hand delivered or sent by prepaid recorded or special delivery post or prepaid at the time of delivery; or

9.1.2 in the case of fax, at the time of receipt according to a report produced by the sending machine if that time is during business hours in the place of receipt (or at 9.00 a.m. on the next business day if the time is not during business hours in that place).

9.2 The addresses and fax numbers of the Parties for the purposes of this Section 9 are:

UMB Bank, n.a.  
928 Grand Boulevard  
Mail Stop 1110603  
Kansas City, MO 64106  
Attention: Mr. George F. Schmelzel  
Senior Vice President – Credit Card Services  
Fax number: (816) 843-2842

The address and fax number of Company for purposes of this Section 9 are:

National Student Nurses Association, Inc.  
45 Main st  
Suite 606  
Brooklyn, NY 11201  
Attention: Susan Wong  
Fax: 718-210-0710

10. **CONFIDENTIALITY, PRIVACY, PUBLICITY AND REFERENCES**

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

10.2 The provisions of Section 10.1 shall not apply to information that:

10.2.1 has come into the public domain other than by breach of this Section 10 or any other duty of confidence;

10.2.2 is obtained by the Recipient Party from a third party without breach of this Section 10 or any other duty of confidence;

- 10.2.3 is known by the Recipient Party, in connection with the Disclosing Party, and which has been disclosed to the Recipient Party by a third party, other than a subsidiary or holding company of the Recipient Party, not in breach of any duty of confidence;
  - 10.2.4 is required by a governmental authority having examination rights over a Party pursuant to laws or regulations binding on the Recipient Party receiving such information;
  - 10.2.5 is disclosed to the Recipient Party's professional advisors for the purpose of obtaining professional advice (subject to obtaining a satisfactory commitment from that Party in respect of confidentiality and non-use);
  - 10.2.6 is disclosed to the Recipient Party's or the Recipient Party's Affiliate's own personnel under conditions of confidentiality and non-use and then only to the extent required for the proper performance of this Agreement; or
  - 10.2.7 is in the possession of the Recipient Party at the time the Confidential Information was disclosed to it by the Disclosing Party or which is independently developed without reference to any Confidential Information of the Disclosing Party.
- 10.3 Except as permitted by Section 5 of this Agreement, neither Party shall use the name or marks of the other in any publicity release, advertising or publicly displayed or distributed materials without securing the prior written consent of the Party whose name is to be used. Notwithstanding the foregoing, Bank reserves the right to refer to you in Bank's customer list for its affinity card program for the duration of the Term.

## 11. **FORCE MAJEURE**

- 11.1 Neither Party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause beyond its reasonable control including (without limitation) any of the following: act of God, governmental act, terrorist act, war, fire, flood, explosion or civil commotion (each, an "**Event of Force Majeure**").
- 11.2 The Party affected by the Event of Force Majeure shall use all reasonable endeavors to mitigate the impact of any Event of Force Majeure and to recommence performance of its obligations under this Agreement as soon as is reasonably practicable. If the affected Party is unable to perform its obligations by reason of the Event of Force Majeure for more than eight weeks, the non-defaulting Party may terminate this Agreement immediately by serving notice on the other to that effect in which event neither Party shall be liable to the other by reason of such termination, but this shall not excuse performance of a payment obligation incurred prior to such termination.

## 12. **AMENDMENT**

- 12.1 Bank can amend Schedule 1 to this Agreement at any time by providing you with ninety (90) days advance notice of the amendment, in the event that a material adverse change in the interchange revenue payable to Bank in connection with credit card transactions is implemented by the applicable Card Association, either on the initiative of the Card Association itself or in response to changes to the General Requirements of

Law. If you do not terminate the Program by the expiration of the notice period, you will be deemed to have accepted any such amendment.

- 12.2 Except as stated in the preceding section of this Agreement, any amendment, modification, variation or supplement to this Agreement must be made in writing and signed by an authorized signatory of each Party.

### 13. ASSIGNMENT AND SUBCONTRACTING

- 13.1 You may not assign, transfer or otherwise make over any part of this Agreement without Bank's prior written consent.
- 13.2 Bank shall be entitled to subcontract any of the Services under this Agreement, and in such event the subcontractor(s) shall be bound by all of the terms and provisions of this Agreement as and to the extent that they relate or apply to the Bank. Bank shall not by virtue of entering into any subcontract avoid liability for any acts and defaults of its agents and sub-contractors for which it would otherwise have been liable.

### 14. INDEPENDENT PARTIES

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

### 15. DISPUTE RESOLUTION

- 15.1 Any dispute between the Parties arising under or in connection with this Agreement or any breach of this Agreement (a "**Dispute**") shall be resolved solely in accordance with the procedures in this Section 15.
- 15.2 Any Dispute under this Agreement whether based on contract, tort, common law, equity, statute, regulation, order or otherwise, shall be resolved as follows:
- 15.2.1 upon written request of either Party, the Parties will each appoint a designated representative whose task it will be to meet for the purpose of endeavoring to resolve such Dispute;
- 15.2.2 the designated representatives shall meet as often as the Parties reasonably deem necessary to discuss the problem in an effort to resolve the Dispute without the necessity of any formal proceeding; and
- 15.2.3 formal proceedings for the resolution of a Dispute may not be commenced until the earlier of:
- (a) the designated representatives concluding in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or

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

provided, however, that this Section 15.2 will not be construed to prevent a Party from instituting formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors or to seek temporary or preliminary injunctive relief pursuant to Section 15.10.

- 15.3 If the Parties are unable to resolve any Dispute as contemplated by Section 15.2, such Dispute shall be submitted to non-binding mediation at the election of either Party (the "**Disputing Party**").
- 15.4 To initiate the mediation, the Disputing Party shall notify the other Party in writing (the "**Mediation Demand**"), which shall
  - 15.4.1 describe in reasonable detail the nature of the Dispute;
  - 15.4.2 state the amount of the claim; and
  - 15.4.3 specify the requested relief.
- 15.5 Within fifteen days after the other Party's receipt of the Mediation Demand, such other Party shall file, and serve on the Disputing Party, a written statement:
  - 15.5.1 answering the claims set forth in the Mediation Demand and including any affirmative defenses of such Party; and
  - 15.5.2 asserting any counterclaim, which shall
    - (a) describe in reasonable detail the nature of the Dispute relating to the counterclaim;
    - (b) state the amount of the counterclaim, and
    - (c) specify the requested relief.
- 15.6 Promptly, but in any event within fifteen (15) days of receipt by the Disputing Party of the written statement referred to in Section 15.5, the Parties will utilize a neutral mediator who satisfies the following conditions:
  - 15.6.1 is appointed by the American Arbitration Association ("**AAA**") from among its list of neutral mediators;
  - 15.6.2 has been licensed to practice law in the U.S. for at least ten years;
  - 15.6.3 is not then an employee of either Party or an employee of an Affiliate of either Party;
  - 15.6.4 is experienced in representing clients in connection with commercial agreements; and
  - 15.6.5 has no past or present relationships with the Parties or their counsel, except as otherwise disclosed in writing to and approved by the Parties.

- 15.7 The mediation hearing shall be held in the City, County and State of New York or at such other location as the Parties may mutually agree. The mediation proceedings and all testimony, filings, documents and information relating to or presented during the mediation proceedings' shall be deemed to be information subject to the confidentiality provisions of this Agreement. The mediator will have no power or authority to relieve the Parties from their agreement hereunder to mediate or otherwise to amend or disregard any provision of this Agreement, including, without limitation, the provisions of this Section 15.
- 15.8 Should a mediator refuse or be unable to proceed with Mediation proceedings as called for by this Section 15, the mediator shall be replaced by mutual agreement of the Parties.
- 15.9 Arbitration: Any controversy or claim arising out of or in relation to this Agreement, that the parties are unable to resolve pursuant to the mediation procedures set forth above, shall be settled by arbitration before a single arbitrator in the City and State of New York, in accordance with the commercial Arbitration Rules of the American Arbitration Association. Any decision or award of the arbitrator shall be binding on the parties. Judgment on any award rendered by the arbitrator may be entered in any court of competent jurisdiction. Each party irrevocably submits, and waives any objection it may have with respect to the jurisdiction of any such arbitration and to such venue, and to the jurisdiction and venue of the federal and state courts sitting in the City and State of New York for the enforcement of any resulting arbitration award. The arbitrator shall apply the law of the State of New York, exclusive of conflict of law principles, to any dispute. Nothing in this Agreement shall require the arbitration of disputes that arise from actions or proceedings instituted by third parties.
- 15.10 Each Party will bear a pro rata share of all fees, costs and expenses of the mediation and/or arbitration and notwithstanding any law to the contrary, each Party will bear all the fees, costs and expenses of its own attorneys, experts and witnesses.
- 15.11 Nothing in Sections 15.2 to 15.10 (inclusive) shall be construed to prevent any Party from seeking from a court a temporary restraining order or other temporary or preliminary relief pending final resolution of a Dispute.
16. **ENTIRE AGREEMENT**
- 16.1 This Agreement, and the documents referred to in it, constitute the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.
- 16.2 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty, understanding, promise or assurance (whether negligently or innocently made) of any person (whether Party to this Agreement or not) other than as expressly set out in this Agreement.
- 16.3 Nothing in this Agreement shall operate to limit or exclude any liability for fraud.

**17. THIRD PARTY RIGHTS**

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

**18. LAW AND JURISDICTION**

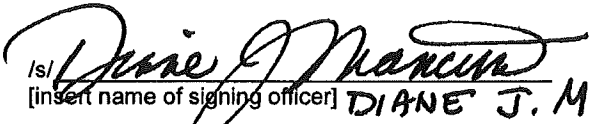
- 18.1 This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the laws of the United States of America and State of New York, regardless of the laws that might otherwise govern under applicable choice-of-law principles.

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IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Agreement as of the Effective Date first written above.

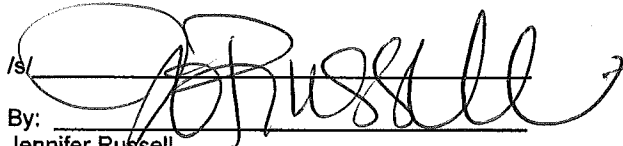
**COMPANY**

National Student Nurses Association, Inc.

/s/   
[insert name of signing officer] **DIANE J. MANCINO**  
Title: **EXECUTIVE DIRECTOR**

**BANK:**

UMB Bank, n.a.

/s/   
By: \_\_\_\_\_  
Jennifer Russell

Title: VP, Business Development

4/11/13

## **GLOSSARY**

<b>"Account"</b>	means each credit card account opened pursuant to an Application processed and approved by Bank under this Agreement.
<b>"Activated Account"</b>	means an Account which has been used by the Cardholder for any transaction within ninety (90) days of the Application being approved, including but not limited to, a retail purchase, cash advance or balance transfer.
<b>"Affiliate"</b>	means, in relation to you or Bank, any company that is controlled by, or is under the common control with, such Party.
<b>"Agreement"</b>	means this Co-Branded Card Agreement together with any Schedules hereto.
<b>"Applicant"</b>	means a person who makes an Application for a Card either through a link available on Your Website or in response to a solicitation by you, by Bank or through other Bank Authorized Materials provided by you.
<b>"Application"</b>	means a request for a Card directed to Bank pursuant to this Agreement.
<b>"Bank"</b>	means UMB Bank, N.A., a national banking association whose principal office is at 1010 Grand Boulevard, Kansas City, MO 64106, or such other credit card bank as may subsequently be substituted as Bank upon notice to you and the reissuance of Cards to Cardholders from time to time during the Term.
<b>"Bank Authorized Materials"</b>	marketing materials relating to the Program which shall be provided to you by Bank from time to time.
<b>"Bank Website"</b>	means a website that Bank maintains and which is available via a link from the Hosted Website at which potential Applicants may submit an application to Bank for a Card issued under the Program and can obtain information regarding their Account.
<b>"Brand Features"</b>	means the trade marks (whether registered or unregistered), service marks, logos and other distinctive brand features that you submit to Bank for use with the Program, including their look, form, feel and substance.
<b>"Business Day"</b>	means any day which is not a Saturday, a Sunday or a bank or public holiday in the State of Missouri.
<b>"Business Hours"</b>	means 9:00 a.m. to 5:30 p.m. Central Time on Business Days.



<b>"Card"</b>	means, a credit card issued by Bank and made available to a Cardholder which is branded with your Company Content.
<b>"Card Association"</b>	means Visa U.S.A. or such other card association as Bank shall from time to time notify you during the Term.
<b>"Cardholder"</b>	means an Applicant in whose name an Account is established, including a joint accountholder or guarantor or authorized user thereof. For purposes of <u>Schedule 2</u> only, <b>"Cardholder"</b> also includes an Applicant who seeks to use the Card Customization Services provided by Bank under that Schedule.
<b>"Cardholder Agreement"</b>	means an agreement between Bank and a Cardholder for an extension of credit under an Account, and any amendments thereto and renewals thereof.
<b>"Cardholder Rewards"</b>	means the benefits made available to Cardholders by virtue of Card use on an Account, as set forth from time to time in the Rewards Program Rules provided by Bank to Cardholders. Cardholder Rewards may be funded by Bank, Company or by each Party, as set forth more fully in <u>Schedule 1</u> .
<b>"Company Content"</b>	means any text, image or logo (including the applicable Brand Features) submitted by you to Bank for the purpose of being used on the Card, the Bank Authorized Materials, other approved marketing materials, the Hosted Website or the Bank Website, as contemplated by this Agreement.
<b>"Customer"</b>	means a person who applies for a Card either at the Hosted Site or using an Application provided by or on a form approved by Bank.
<b>"Due Date"</b>	the date falling thirty (30) days after the end of a Quarter or, if such date is not a Business Day, the next following Business Day.
<b>"Effective Date"</b>	means the date set forth in the first paragraph of this Agreement.
<b>"Eligible Transaction Volume"</b>	means all retail purchase transaction dollar volume generated using an Account, excluding transactions that (1) relate to refunds, returns and/or unauthorized transactions, (2) are cash equivalent transactions (including, without limitation, cash advances, the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips); or (3) constitute the redemption by Cardholder of Cardholder Rewards earned for Card use.
<b>"Escalation Procedure"</b>	means the procedure set out in <u>Section 15</u> ;

<b>"Event of Force Majeure"</b>	has the meaning given to it in <u>Section 11.1</u> .
<b>"General Requirements of Law"</b>	means, with respect to Bank, those requirements of law or regulation that apply to issuers of credit cards under the laws of the United States or any State, and with respect to Company, it includes any laws that may change Company's tax-exempt status, if applicable, because of Company's participation in the Program, and any laws or regulations that govern a participant in a co-branded credit card arrangement similar to the Program.
<b>"Hosted Website"</b>	means a website to be constructed and maintained by Bank that will be available to you and to your Customers via a link from Your Website, that describes the Card Program, contains your Company Content, and that enables Bank to administer the Program, and that will contain a link to the Bank Website for the purpose of accepting applications from Applicants.
<b>"Initial Term"</b>	means the period between the Effective Date and the end of the period set forth in <u>Schedule 1</u> hereto.
<b>"Intellectual Property Rights"</b>	copyright, design rights, rights in databases, moral rights, trade marks, service marks, trade and business names, patents, rights in inventions and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.
<b>"Loss"</b>	any damages, loss, costs, claims or expenses (including without prejudice to <u>Section 8.2</u> , loss of profit, data, revenue, use, goodwill, reputation, anticipated savings, market or business (whether direct, indirect, special, consequential, pecuniary, non-pecuniary or otherwise) whatsoever and howsoever caused and any indirect special or consequential damages, loss, costs, claims or expenses of any kind).
<b>"Party"</b>	means you or Bank, and <b>"Parties"</b> shall mean both of us.
<b>"personnel"</b>	means the officers, directors, and employees of the relevant Party.
<b>"Privacy Rules"</b>	means Title V of the Gramm-Leach Bliley Act 1999 and its implementing regulations applicable to national banks (12 CFR Part 40), the Interagency Guidelines Establishing Standards for Safeguarding Customer Information and state laws regarding the privacy and security of consumers' personal information, as may be changed from time to time.
<b>"Program"</b>	means the affinity card program created under this Agreement, by which your Customers, using the Hosted

Website, can receive information about how to support your Company by applying to Bank for Cards containing your Company Content, which application will take place at Bank's Website, and by which you will be paid Rewards and Cardholders may also earn Cardholder Rewards in accordance with the Agreement.

**"Quarter"**

each period of three calendar months ending on March 31, June 30, September 30 and December 31 in each Year.

**"Renewal Period"**

has the meaning set forth in Section 7.2 of this Agreement.

**"Reward"**

means the sums payable by Bank to you under this Agreement, as more particularly described in Section 3 and Schedule 1. The term "Reward" does not include Cardholder Rewards made available to Cardholders in connection with the Program.

**"Term"**

means the Initial Term or any Renewal Period, as more further set forth in Section 7 and Schedule 1 of this Agreement.

**"Your Website"**

means a website that you maintain for the benefit of your Customers, which will have a link to the Hosted Website and/or the Bank's Website, so that potential Applicants may obtain information about the Program and submit an application at Bank's Website for a Card.

**"Year"**

means each calendar year, commencing on the Effective Date and ending on each anniversary thereof.

## **Schedule 1**

### **Co-Branded Card Agreement**

#### **National Student Nurses Association, Inc.**

**Initial Term:** Three (3) years from the Effective Date.

**Rewards:**

Bank shall pay the following types of Rewards:

- **Successful Application Reward:** The sum of \$50 for each new Activated Account that results from an Application pursuant to this Agreement. An "Activated Account" means an Account which has been used by the Cardholder for any transaction within ninety (90) days of the Cardholder's Application being approved by the Bank, including but not limited to, a retail purchase, cash advance or balance transfer.
- **Transaction Reward:** a sum equivalent to 10 basis points of the Eligible Transaction Volume in respect of each Account that results from an Application pursuant to this Agreement. "Eligible Transaction Volume" means all retail purchase transaction dollar volume generated using an Account, excluding transactions that (1) relate to refunds, returns and/or unauthorized transactions, (2) are cash equivalent transactions (including, without limitation, cash advances, the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips); or (3) constitute the redemption by Cardholder of Cardholder Rewards earned for Card use.
- **Cardholder Rewards.** Bank to offer cardholders a high-value rewards platform for point redemption. Points are earned at 1 point per dollar spent in net purchase volume, 2 points per dollar of finance charge billed to a cardholder's account, and 1 point per dollar transferred as part of a balance transfer.

[Cardholder Rewards payable by Company, if any, and manner in which Company will pay for such Cardholder Rewards]

## **Schedule 2**

### **Co-Branded Card Agreement**

#### **CARD CUSTOMIZATION SERVICES**

#### **1. SERVICE DESCRIPTION**

##### **1.1 Background**

- 1.1.1 The Card Customization Services will be a hosted (ASP) solution to enable Cardholders using a design interface to customize the appearance of their Card using Customer-selected images on the face of the Card.
- 1.1.2 You shall agree with Bank on a set-up for Card Customization that identifies the number and type of permissible customization options that may be selected by a Customer and which will be incorporated into Bank's Card Designer. Following such agreement, Bank shall incorporate the selected customization options into the Card Designer and shall make the Card Designer available to the general public over the internet, and shall host and support it during the Term.
- 1.1.3 Bank shall have no responsibility for ensuring that the equipment of any Cardholder seeking to access or use the Card Designer complies with the applicable technical requirements to operate the Card Customization program.

##### **1.2 Design Interface**

- 1.2.1 The Card Designer will:
  - 1.2.1.1 make available up to five categories of up to nine images each, which may be used for Card production if the Cardholder does not opt to upload his or her own image;
  - 1.2.1.2 allow the Cardholder to upload their own image(s);
  - 1.2.1.3 allow the Cardholder to manipulate the image, (which may be either a stock gallery or Cardholder uploaded image), using standard controls; and
  - 1.2.1.4 generate a unique identifier assigned to each submitted card design, and include it as a parameter into a return URL agreed between the Parties.
- 1.2.2 For the avoidance of doubt, you shall not be entitled to request any changes to the Card Designer after the set-up parameters have been agreed between you and Bank.

##### **1.3 Image Checking**

- 1.3.1 Bank verifies that each image submitted by a Cardholder for incorporation into a Card for compliance with the provisions of Section 4.7 of the Agreement, and retains the right to reject any image that does not, in the Bank's view, meet the qualifications set forth in that section of the Agreement. Bank's determination in that regard is final.
- 1.3.2 YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT IMAGE CHECKING IS PROVIDED BY BANK SOLELY AND EXCLUSIVELY FOR THE BENEFIT OF THE BANK AND THE CARD ASSOCIATION. AS A RESULT, WITHOUT PREJUDICE TO SECTION 8 OF THE AGREEMENT, BANK SHALL HAVE NO LIABILITY TO YOU OR TO A CARDHOLDER FOR ANY LOSS SUFFERED BY YOU OR BY A CARDHOLDER IN CONNECTION WITH ANY ACT OR OMISSION ARISING OUT OF ITS PERFORMANCE (OR THAT OF ITS SUBCONTRACTORS) OF IMAGE CHECKING IN RELATION TO USER PROVIDED IMAGES.

[End of Schedule 2]