

WESTERN KENTUCKY UNIVERSITY MARKETING SERVICES AGREEMENT

This Western Kentucky University Marketing Services Agreement (“Agreement”) is entered by and between Western Kentucky University (“University”) and U.S. Bank National Association (“Bank”) with an effective date of December 1, 2023

Recitals

- A. University currently markets various products to their students.
- B. University desires to include banking products as a part of such marketing campaigns; and
- C. Bank offers such banking products; and
- D. University and Bank wish to provide marketing to students for banking products in accordance with this Agreement.

Accordingly, the parties agree as follows:

1. Banking Products. Bank will, during the Term of this Agreement, provide banking products to the campus community which can be composed of but not limited to; students (incoming & current), faculty & staff (current & retired), alumni, fans of the school (i.e. athletics), and the surrounding community which includes the residents that live in the geographical area where the school is located (“Users”). “Banking Products” means financial products available to Users through Bank either online or at a branch.

1.1 Product Features. Bank will offer their standard Banking Products available at all Bank branches with our standard account benefits, features, and fees. A fee list is available upon request. Bank reserves the right to amend or enhance such benefits, features, and fees from time-to-time. Bank will never charge additional fees for opening a student checking account and will not allow Bank’s University affiliated debit card to be marketed, portrayed, or converted into a credit card. Additionally, all Bank-branded ATM’s on the University’s campus will be free of transaction charges to Bank account holders when accessing their account with a Bank ATM/debit card throughout the Term of this Agreement and any renewal periods. Additional enhancements to Banking Products or services will be at the sole discretion of Bank.

1.2 Eligibility. Eligibility for Banking Products will be at the sole discretion of Bank.

1.3 Reporting. Within 60 days following the most recently completed Title IV award year, Bank will provide an annual reporting of the number of students with accounts for any portion of such year under this Agreement, including the mean and median of the actual costs incurred by student account holders.

2. Automated Teller Machines (“ATM”). University and Bank anticipate placing one ATM on the University campus. The number, operation, and placement of ATMs is governed by and subject to a separate ATM Placement Agreement between Bank and University. This Agreement is contingent on execution of a mutually agreeable ATM Placement Agreement. In the event an ATM Placement Agreement is not executed within 30 days of this Agreement or in the event the ATM Placement Agreement is terminated, Bank has the right to terminate this Agreement upon 10 days’ advance written notice to the University.

3. U.S. Bank Affinity Debit Card Terms and Conditions. Specifications, Terms and Conditions, and Licenses for a co-branded Bank debit card associated with Users’ accounts bearing the University’s marks (an “Affinity Debit Card”) are found in Exhibit 1 to this Agreement.

4. Marketing.

4.1 Solicitation. Bank may solicit new Bank accounts. Bank may prepare text acceptable to University for miscellaneous marketing materials relating to Banking Products for distribution to Users. Bank may promote itself as the University's preferred Provider to Users. University will acknowledge approval of text in writing. Bank may continue to work with University to develop marketing materials and Financial Wellness Seminars to expand User awareness and understanding of Banking Products. No marketing materials may be distributed at the University without University's prior review and written approval.

4.2 Events. University will provide Bank with Preferred Access to, and presence at, significant on-campus activities, events and promotional locations to advance the opening of new Bank accounts at no additional cost to Bank. Preferred Access means other banks may attend the same event, but Bank will have the most visible and desirable location at such events venues including but not limited to the following:

- New Student Orientation
- International Student Orientation
- On-going Tabling Events including Start of Semester, Book Buy-Back and Banker in the House
- Financial Wellness Seminars for faculty, staff, and students.

Participation in such events will include where applicable, but not be limited to, the following:

- Distribution of Letters and Account Applications prior to the event
- Tables in high traffic areas
- Presentations to Students and/or Parents

In addition, Bank has access to the following:

- University will work with Bank on annual and semi-annual marketing campaigns to new and existing faculty, staff and students.
- Marketing materials developed by the Bank will be approved by the University.
- Marketing materials provided by Bank and mailing lists provided by University will be sent to a third-party vendor approved by the University for production and distribution.
- Bank will be responsible for covering all costs directly with the vendor.
- Bank to market affinity card to Bank and non-Bank customers in surrounding community
- Usage of University affinity card image in Bank sales materials that will be shared with prospects

4.3 Promotional Information. University will work cooperatively with Bank in development and distribution of mail solicitations as described in Section 4.2. Neither University nor Bank will share any User information as part of this Agreement. Further, Bank will not be required to provide any financial records or information relating to individual Users to University, nor will University be required to provide any student information records to Bank.

4.4 Prior Approval. University will not distribute any materials using Bank's name or relating to Banking Products without receiving prior approval from Bank. Further, Bank will not distribute any materials using University's name or marks without receiving prior approval from University.

5. Term and Termination. This Agreement will remain in effect for an initial term of five-years, beginning on the date of this Agreement and ending on November 30, 2028 ("Term"). After completion of the initial Term, the parties may mutually agree to renew this Agreement for 3 additional subsequent 5-year Terms. Either Bank or

University may notify the other party in writing of their desire to terminate this Agreement. Written notification of termination must be received 90 days prior to the end of the Term. In absence of any such notice, this Agreement will continue to remain in effect.

5.1 Breach. In the event of a breach of this Agreement by either party at any time during the Term of this Agreement, the non-breaching party will provide written notice of such breach. In the event the breach is not cured or a suitable plan for curing the breach is not proffered within 90 days from the date of such notice, the non-breaching party may thereafter terminate this Agreement upon an additional 10 days' written notice to the breaching party, subject to Section 5.2 regarding immediate termination for cause.

5.2 Immediate Termination for Cause. Either party may terminate this Agreement immediately upon written notice to the other in the event of: (1) the liquidation or dissolution of the other party; (2) the making of an assignment of a substantial portion of its assets for the benefit of its creditors; (3) the filing of a voluntary or involuntary petition under any federal or state bankruptcy statute by the other party; or (4) the inability of the other party to pay its debts as they become due; (5) the noncompliance with regulation or law applicable to the noncomplying party.

5.3 Termination for Change in Law. Bank may terminate this Agreement at any time with 90 days' notice to University without liability, except for liabilities accrued prior to the termination, upon the issuance of any order, rule or regulation by any regulatory agency, national association, or administrative body or the decision or order of any court of competent jurisdiction that is controlling or binding on Bank prohibiting any or all of the services contemplated in this Agreement, or if such order, rule or regulation restricts the provision of such services so as to make the continued provision thereof unprofitable or undesirable, or will be unduly restrictive to the business of Bank or will require burdensome capital contributions or expenditures.

5.4 Termination for Complaints or Fees.

5.4.1 Complaints. Bank will provide University with a point of contact to address student complaints when needed. University will complete and share with Bank a biennial due diligence review of student complaints associated with Bank's accounts provided in connection with this Agreement. After joint review University may terminate this Agreement upon 90 days' notice to Bank if University determines that number of complaints were excessive.

5.4.2 Fees. University will complete and share with Bank a biennial due diligence review of the fees assessed student accounts in connection with this Agreement. After joint review University may terminate this Agreement upon 90 days' notice to Bank if University determines the fees assessed to Users of Banking Products are not consistent with or are above the prevailing market rates for similar Banking Products.

5.5 Termination; Effect on Users. University and Bank agree that each User who has an account with Bank with an Affinity Card will be a customer of Bank and, upon any termination of this Agreement pursuant to this section, or upon Users leaving University, each User will remain a customer of Bank unless such User chooses to terminate his or her account with Bank. Bank may solicit such Users in order to sell them the full range of Banking Products during the Term of this Agreement or after its termination. University reserves the right to solicit such Users after the termination of this Agreement, in order to sell them any banking products offered on the University campus by any party. Upon any termination of this Agreement or the Affinity Card Program, University will allow Bank to continue User and general customer accounts with an Affinity Card plastic on open Bank accounts. Such plastic will be replaced with plastic that does not bear University's Licensed Marks solely upon expiration of the plastic or replacement of plastic due to lost/stolen or upgrade reasons. Notwithstanding the foregoing, should University require, following termination, that Bank replace existing Affinity Card plastic on open Bank accounts with plastic that does not bear the University's Licensed Marks, University shall be responsible

for the cost of such replacement and shall provide Bank with reasonable time to affect such replacement. Bank shall have no obligation to assign new account numbers to replacement debit cards.

5.6 Survival. The rights and responsibilities of each party as embodied in Section 4 (“Marketing”) and Exhibit I (“U.S. Bank Affinity Card Terms and Conditions”) regarding the use of marks and other intellectual property, Section 7 (“Indemnification; Losses”) regarding indemnification, and Section 11.8 (“Confidential Information”) regarding the use and preservation of confidential information will survive the termination of this Agreement.

6. Representations and Warranties. Each party represents and warrants as follows:

6.1 No Conflict. The execution, delivery, or performance of the activities contemplated by this Agreement will not violate or conflict with any applicable law, regulation, or rule, or contract to which the party is subject.

6.2 Authority. Each party has the authority to enter into this Agreement and has received all necessary approvals.

6.3 University Authority. University has the authority to enter into this Agreement on behalf of its member institutions, and further has the authority to ensure that the terms of this Agreement are adopted and followed by its member institutions.

6.4 No Other Agreements. University represents and warrants that it, neither has, nor will it enter into, any future relationships or agreements with other financial services companies, issuers of debit cards, or provider of services covered under this Agreement, other than Bank that would compromise the Preferred Access provisions of this Agreement or the purposes for which this Agreement was entered into by Bank for the Term of this Agreement. This includes, but is not limited to, banking accounts, issuing of debit cards or their functional equivalents, allowing any type of accounts or debit card products that bear or are associated with the University’s name or protected marks, or products that solicit student checking accounts.

7. Indemnification; Losses. Notwithstanding any other provision in this Agreement:

7.1 Bank Indemnification of University. Bank will defend, hold harmless, and indemnify University from and against any third-party claims for loss, damage, cost, and expense, including reasonable attorneys’ fees, suffered by University due to Bank’s gross negligence, wrongful acts, wrongful omissions, or the willful misconduct of its employees, agents, or officers of Bank arising out of the performance or nonperformance of services under this Agreement. In the event University seeks indemnification from Bank, University will provide notice to Bank of the events leading to the claim as soon as they are known to University and University will allow Bank to control the defense of such claims in return for Bank’s indemnification.

7.2 University Indemnification of Bank. University will be responsible for any third-party claims for damages that result from its employees, agents, and representatives’ gross negligence, wrongful acts, wrongful omissions, or willful misconduct during the performance of duties agreed to herein. By so agreeing, University is not waiving any of the protection afforded the University as a public body of the state of Kentucky. Bank acknowledges that Users are not by definition employees, agents, or officers of University and University assumes no liability for the individual acts of Users.

8. Payments

8.1 Operations Payment. Bank will pay to University an annual fixed operations payment of \$40,000 (“Operations Payment”) on or before July 31st of each year of this Agreement. This payment is to be made partially in arrears each year with the first payment occurring by July 31st, 2024. For the sake of clarity, each payment made represents payment for the period from December 1st through November 30th of the Agreement year.

8.2 Release of Information. Bank will not be required to provide any financial records or information relating to individual Bank customer to University, nor will University be required to provide any student information records to Bank, for any purpose whatsoever including the purpose of calculating the Operations Payment or scholarship payments under this Agreement.

9. License. Both University and Bank may, at their sole cost and expense, advertise the existence of the Affinity Card and location of ATMs established pursuant to this Agreement in such media and in such manner as each deems appropriate. University or Bank grant to each other a non-exclusive, royalty-free license to use the others’ registered and common law trademarks in advertisements promoting ATMs and Banking Products pursuant to this Agreement. Nothing will give to University or Bank any right, title or interest in the others’ trademarks (except the right to use in accordance with this Agreement). The trademarks are the sole property of the owner, and any and all uses of the trademarks will inure to the benefit of the owner. These trademark licenses expire with this Agreement. The prior written approval of each party will be obtained with regard to any advertisement that refers to both parties. Such prior written approval is not to be withheld without a good-faith concern regarding the quality or subject matter of the advertisement. The cost of any such joint advertising undertaken by either party will be shared between the parties as agreed by them prior to such advertising being undertaken by either of the parties. Notwithstanding anything to the contrary contained herein, University expressly consents to the use of its trademark logo on Bank-issued checks and Affinity Cards in connection with this Agreement, and such consent survives the termination of this Agreement and Users’ affiliation with University.

10. Notices. All notices and statements by either party in connection with this Agreement will be binding upon the recipient if sent to the following addresses. All notices under this Agreement must be made by hand delivery or certified/registered mail, first class, postage prepaid, return receipt requested.

University: Western Kentucky University
Attn: Jennifer Tougas
1906 College Heights Blvd #11099
Bowling Green, KY 42101-1099

Bank: U.S. Bank
Campus Banking
Attn.: Vincent Roos – Vice President
10100 W. 119th St.
2nd Floor
Overland Park, KS 66213

11. Miscellaneous.

11.1 Choice of Law. This Agreement and its interpretation will be governed by the laws of the state of Kentucky. In the event of a dispute hereunder, the parties agree to submit to the exclusive jurisdiction of the state and federal courts sitting in, the state of Kentucky.

11.2 No Waiver. The delay or failure of either party to exercise any of its rights under this Agreement will not be deemed to be a waiver of such rights.

11.3 Severability. If any term of this Agreement is found by a court to be illegal or not enforceable, all other terms will still be in effect.

11.4 Entire Agreement; This Agreement and any attachments constitute the entire Agreement between the parties, notwithstanding any prior oral understandings or contrary provisions contained in any previous written documents between the parties. Any modification or amendment of this Agreement must be in writing and executed by authorized personnel of both parties. Paragraph headings are for informational purposes and do not constitute a part of the Agreement.

11.5 Assignment. Neither party will assign this Agreement or any interest therein to any other person or business without the prior written consent of the other party, provided that, Bank will have the right, without University's consent, to transfer or assign this Agreement to any parent, subsidiary, or affiliate of Bank or to any entity succeeding to substantially manage all of the assets of Bank as a result of a consolidation or merger.

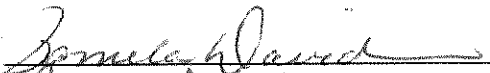
11.6 Power and Authority. The undersigned persons executing this Agreement represent and certify that they have been fully empowered by their respective organizations to execute and deliver this Agreement and that all necessary corporate action for the making of this Agreement has been taken and done.

11.7 Force Majeure. Neither party will be liable to the other for its failure to perform any of its obligations under this Agreement, except for payment obligations, during any period in which such performance is delayed or rendered impractical or impossible due to circumstances beyond its reasonable control, including without limitation, power failures, earthquakes, government regulation, fire, flood, labor difficulties, civil disorder, terrorism, and acts of God, provided that the party experiencing the delay promptly notifies the other party of the delay.

11.8 Confidential Information. This Agreement does not contemplate sharing confidential customer/User information by Bank. However, Bank and University each acknowledge that each party, or its agents and subcontractors, may come into possession of some confidential information, not otherwise known or available to the general public, relating to the other party while performing under this Agreement. Each party agrees, except as may be required by applicable law or regulation, or by legal process, to keep such information confidential and not disclose the same to third parties (other than affiliate or subsidiary companies, legal counsel, accountants or other outside professionals representing each party or its respective affiliates or subsidiaries, on a need -to-know basis), to maintain adequate controls over such information and third parties who have access to such information to protect it from disclosure, and to further comply with all federal and state information security and confidentiality laws, including but not limited to the Family Educational Privacy Act (FERPA) of 1974, when applicable.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the date first written above, by and through their duly authorized officers.

WESTERN KENTUCKY UNIVERSITY

Sign: 
By: Pamela Davidson
Title: Procurement Card Prog. Mgr.
Date: 12-1-23

U.S. BANK NATIONAL ASSOCIATION

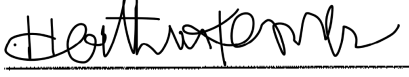
Sign: 
By: Heather J Kesner
Title: East Region Exec
Date: 12/1/2023

EXHIBIT 1

U.S. Bank Affinity Card Terms and Conditions

These U.S. Bank Affinity Card Terms and Conditions (“Terms and Conditions”) facilitate the provision of an affinity debit card bearing the University’s “Licensed Marks” which shall mean the current and future trademarks, service marks, stylized marks, photographs, and logos of the University as these collective marks are described and provided by the University on the attached Addendum A to this Exhibit. These Licensed Marks are owned by the University or it has a license to use the Licensed Marks including any and all applications and registrations related thereto. Any conflict between these Terms and Conditions and the terms and conditions contained Agreement pertaining to the Program (defined below) will be interpreted in accordance with the Terms and Conditions. The parties therefore agree as follows:

1. Bank Operational Responsibilities. U.S. Bank National Association (“Bank”) shall administer and be solely responsible for all operational aspects of the Western Kentucky University (“University”) and Bank’s affinity card program (the “Program”), including the plastic issuance associated with this Program. University shall have no liability or responsibility such issuance. The parties agree there will be no royalties paid by Bank for the use of the Licensed Marks described herein.

2. Program and Card Policies and Attributes. Bank shall have full responsibility for and shall control all policies, activities, and decisions with respect to the Program and the User’s associated Accounts, such as card issuance, cancellation, and issuance of personal identification numbers. The Program is subject to termination for convenience at the Bank’s sole discretion. For further clarity, Bank may choose without cause to terminate the Program anytime from the date of this Agreement, with the provision of 90 day’s written notice, prior to any such termination.

3. Card Issuance and Termination. Beginning on the Program launch date and thereafter until termination of the Agreement, unless Bank elects to terminate for convenience, Bank shall offer Program cards to Bank’s customers in accordance with the Terms and Conditions and the Bank’s policies. Upon any termination of the Agreement or Program the parties agree to winddown the Program according to **Section 5.5** of the Agreement and as follows:

Upon any termination of this Agreement or the Affinity Card Program, University will allow Bank customers having an Affinity Card plastic on their open Bank accounts to continue to use the existing issued Affinity Card plastic. Such plastic will be replaced with plastic that does not bear University’s Licensed Marks solely upon expiration of the plastic or replacement of plastic due to lost/stolen or upgrade reasons.

4. Design and Manufacture of Cards. Bank will purchase plastic stock and be responsible for ordering, embossing, encoding and delivering the Program cards using a unique card design created and owned by Bank, except that Bank shall have no ownership rights in the Licensed Marks used thereon, and University shall have no ownership rights in the Bank’s marks or Visa Service marks used thereon. Program cards will be customized to University and shall bear Licensed Marks, Bank’s marks and the trademarks of the appropriate National Associations, as well as, additional verbiage required by the National Associations, such as a “Debit Card” or “Check Card” designation. University shall have the right to review and provide prior approval for the type and size of Licensed Marks to be used on the Program cards, as well as, on the final design of any Program card, excluding use, type, size and placement of National Association marks and subject further to applicable National Association regulations and requirements of law. Subject to Section 4.1 below, Bank shall bear the expense of manufacturing the Program cards issued to Bank’s customers.

4.1 Re-design. University shall bear all costs and expenses related to any re-design of Program cards requested by it, unless both Bank and University agree in writing that a re-design is necessary. If any Program card re-design contemplated herein involves the addition of Bank marks or trademarks of any of the National Associations, Bank shall bear the expense of any additional manufacturing or printing costs. Bank will issue re-designed Program cards to new cardholders and to existing cardholders upon any Program card reissuance or

replacement occurring in the ordinary course; provided, that, Bank may exhaust its existing stock of plastic unless University pays for new plastic prior thereto.

5. Marketing and Solicitations. University shall not be required to provide any services, such as marketing or promotional services, in connection with the Program other than licensing its Licensed Marks to Bank and using or otherwise making available to Bank the marketing channels reasonably requested by Bank, including but not limited to, the campus community composed of the students (incoming & current) and new and current faculty & staff including marketing to the residents that live in the geographical area where the school is located. University shall have the right to review and provide prior approval of marketing content of all solicitations and materials including a use of the Licensed Marks or University name. Bank may create, host and maintain a separate web page advertising and promoting the Program card ("Program Affinity Page"). The Program Affinity Page will contain Bank's marks and the Licensed Marks. Bank shall ensure the information provided on the Program Affinity Page is accurate in all material respects.

6. License Grant. Subject to the Terms and Conditions, University hereby grants to Bank a non-exclusive, nontransferable license to use the Licensed Marks solely in connection with the Program in the United States. Bank may sublicense the foregoing rights only to sublicensees who will use the Licensed Marks on Bank's behalf with respect to the Program. Bank will have a written contractual relationship with any such party and be responsible to University for sublicensee's use University's Licensed Marks.

7. Reservation of Rights. Bank acknowledges that University has represented to it, and University warrants, that it is the sole owner of all right, title, and interest in and to the University's Licensed Marks. Bank acknowledges that it has not acquired, and shall not acquire, any right, title or interest in or to the University's Licensed Marks except the limited right to use such Licensed Marks as expressly set forth in these Terms and Conditions. All use of the University's Licensed Marks by Bank, and all goodwill associated with such use, shall inure to the benefit of the University. All rights of the University in and to the University's Licensed Marks not expressly granted under these Terms and Conditions are reserved by the University. Should any right, title, interest, or other ownership in the Licensed Marks become vested in Bank by operation of law, this Agreement, or otherwise, then Bank agrees to assign, and hereby assigns, all such right, title, interest and other ownership to University free of additional consideration. Bank shall provide and execute all documents necessary to effectuate and record such assignment to University.

8. Restrictions. All use of the Licensed Marks as permitted herein shall be subject to the following restrictions:

Bank shall not create, nor shall it permit third parties to create a unitary composite mark involving the Licensed Marks or use the Licensed Marks (a) as a portion or in combination with any other trademarks, service marks or logos; (b) as all or part of a corporate name, trade name or any other designation used by Bank to identify its products, services or business, or (c) for any other purpose other than as expressly permitted herein. Both during and after the Term of this Agreement, neither Bank nor any parent, subsidiary, or affiliate of Bank shall use any name, trademark, service mark, trade name, trade dress or logo which is confusingly similar or identical to any of the Licensed Marks. Nothing herein shall prevent Bank from using or affixing other trademarks to the Program cards or marketing materials related to the Program as long as such usage is not inconsistent with the requirements of these Terms and Conditions.

Bank shall not, directly, indirectly or otherwise: (a) facilitate activities which jeopardize, dilute or otherwise adversely affect the Licensed Marks; or (b) attack, dispute or challenge (nor aid or encourage others to do so) University's right, title and interest in and to the Licensed Marks, or the validity of the Licensed Marks.

University shall have no right, title, or interest in and shall not use the company name, logos or trademarks of Bank, any Visa Service Marks, or PLUS SYSTEM Marks without specific prior written consent.

9. Symbols. In connection with the use of the Licensed Marks, Bank will for each page or product surface on which a Licensed Mark is used, mark the use of the Licensed Marks with the appropriate trademark symbol in accordance with applicable law (e.g., "TM", ®, or "SM") or as instructed by University in writing from time to time.

10. Guidelines. Use of the Licensed Marks hereunder shall be in accordance with the provisions of this Agreement and University's then-current guidelines, as may be provided to Bank and updated from time to time by University.

Bank shall not reproduce or use the Licensed Marks in any manner whatsoever other than as expressly authorized by these Terms and Conditions.

11. Quality Control. Bank represents and warrants that all use of the Licensed Marks as permitted herein shall (a) be in accordance with applicable law; (b) conform to at least the standards of quality currently prevailing in Bank's goods and services; (c) not be offensive, disparaging or misleading as to the origin or quality of the Program cards or the marketing materials related to the Program; and (d) be consistent with the general advertising practices in the industry. Bank shall not engage directly, indirectly or otherwise, in any practice or other activity that is or is likely to be detrimental to the goodwill associated with the Licensed Marks or the goodwill or reputation of the University or its services or products, or that constitutes a deceptive trade practice or unfair competition or that violates any applicable fair-trade laws, privacy protections or advertising rules and regulations or that would disparage the Licensed Marks.

12. Exclusivity. University agrees that, during the Term of the Agreement, University shall not be a party to any agreement not in effect as of the date of this Agreement with any issuer of debit cards for the purpose of issuing affinity debit cards, or the functional equivalent thereof, or opening any such related accounts, for which the associated debit cards bear the Licensed Marks or such accounts are associated with the Licensed Marks. Such exclusivity is restricted to the University only and explicitly excludes banking relationships and activities forged by the Alumni Association, Athletics, or the College Heights Foundation.

APPENDIX A

WESTERN KENTUCKY UNIVERSITY
LICENSED MARKS

