

“Institution”: St. Johns River State College
“Institution Address”: 5001 St. Johns Avenue, Palatka, FL 32177
“Effective Date”: July 1, 2016
Go-Live Date: N/A

This Customers Bank Services Agreement (together with all exhibits hereto, this “Agreement”) is entered into as of the Effective Date between Customers Bank, a Pennsylvania corporation located at 1015 Penn Avenue, Suite 103, Wyomissing, PA 19610 (“Customers Bank”) and the Institution.

WHEREAS, the Institution desires that Customers Bank provide the Services (as described in Exhibit A and defined in Exhibit B hereto) to the Institution;

WHEREAS, Pensacola State College (“PSC”) issued Intent to Negotiate (“ITN”) 27-2015/2016 (attached as Exhibit C) for Refund Disbursement Services: and

WHEREAS, the resultant contract was awarded to Customers Bank as the top ranked proposer; and

WHEREAS, Customers Bank desires to deliver such Services under the terms set forth in Exhibits A and B attached hereto.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Customers Bank and the Institution hereby agree as follows:

Customers Bank and the Institution will implement the Services described in the Exhibits on the following timeline:

For purposes of this Agreement, the “Go-Live Date” shall be the date on which implementation is complete and funds disbursement is fully operational.


On the Effective Date, this Agreement will supersede and replace the services agreement entered into by the parties and dated June 1, 2010.

The initial term of this Agreement will end on **June 30, 2019**. This Agreement will automatically renew for three additional periods of one (1) year at the published prices in effect at the time of renewal unless, at least 120 days prior to the end of the current term, either party gives the other a written notice of termination.

Exhibit A (Description of Services) and Exhibit B (Terms and Conditions) are incorporated into this Agreement by reference. Moreover, Institution’s cooperative utilization of the rates, terms and conditions, as set forth in the PSC ITN 27-2015/2016, which this Agreement was created in response to, is incorporated into this Agreement by reference. In the event a term in the Agreement conflicts with a term in the ITN, the ITN shall govern.

IN WITNESS WHEREOF, the Institution and Customers Bank have caused this Agreement to be executed as of the Effective Date.

CUSTOMERS BANK

By: 
Casey McGuane
COO
Date: 7-25-16

INSTITUTION

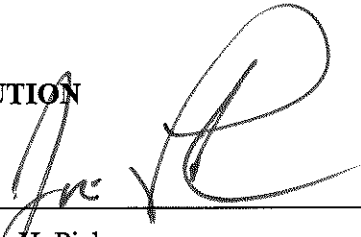
By: 
Name: Joe H. Pickens
Title: President
Date: 6/30/16

Exhibit A
Description of Services

1. Definitions

The following definitions apply to the terms set forth below when used in this Agreement:

1.1 “ACH” shall mean Automated Clearing House.

1.2 “ATM” shall mean a mechanized or electronic device that allows consumers to withdraw cash from a bank account and may provide additional functions.

1.3 “Campus Transaction System” shall mean an Institution System and/or third party vendor system that provides a multitude of campus services to Users through their Debit Card.

1.4 “Debit Card” shall mean a Customers Bank mag-stripe MasterCard® (or other network) debit card that will be provided to each Customers Bank Account holder.

1.5 “Disbursements” shall mean the distribution of a Title IV credit balance and non-Title IV funds.

1.6 “Electronic Disbursement” shall mean any direct deposit into a User’s financial account provided by Customers Bank, or ACH transfer to a User’s third-party bank account.

1.7 “ERP” shall mean an Institution System that contains User information necessary to operate the Services.

1.8 “Government Rules” shall mean all applicable laws, regulations and rules promulgated by a state or the federal government, or any agency or department thereof.

1.9 “Customers Bank Account” shall mean a checking account opened and maintained by a User through Customers Bank.

1.10 “Customers Bank Materials” shall mean any computer programs (source and object code and executable form), communications protocols, specifications, layouts, flow charts, manuals and instruction books, websites, content, designs, logos, proprietary methods, marketing strategies and operational guidelines, as provided by Customers Bank to the Institution, or developed and used by Customers Bank in the course of performing the Services.

1.11 “Institution Data” shall mean any data or information of the Institution that is provided to Customers Bank in the performance of its obligations under this Agreement, including data and information with respect to the businesses, operations, facilities, products, consumer markets, assets, finances, and personal information of Users. For the avoidance of doubt, Institution Data may include directory information as defined in 34 CFR 99.3.

Additional required data will be determined during implementation. Institution Data shall not mean the data generated and used by Customers Bank to provide the Services to Users.

1.12 “Institution System” shall mean the equipment, hardware, and all related electronic equipment and any computer programs (source code, object code and executable form), used in conjunction with the administration of the Services.

1.13 “Intellectual Property Rights” shall mean any and all proprietary rights in any trademarks, copyrights, trade secrets, patents and patent applications, renewals, extensions, continuations, divisions or reissues, in whole or in part, now or hereafter in force, and any foreign counterparts.

1.14 “Operating Rules” shall mean any written operating rules and regulations required by third party providers, including but not limited to VISA and MasterCard® (as applicable).

1.15 “Paper Check Disbursement” shall mean disbursement via paper check mailed or provided to User.

1.16 “Services” shall mean the services to be provided by Customers Bank to the Institution as set forth in Exhibit A.

1.17 “User” shall mean any individual who is eligible for the Services offered by Customers Bank pursuant to this Agreement.

2. General Description

Customers Bank will provide comprehensive student refund disbursement services to the Institution. The Services to the Institution shall include the following:

- a. providing Users access to a secure technology platform to select refund delivery preference;
- b. offering telephone and web-based customer service to all Users;
- c. handling exceptions such as refund reversals and stale check returns;
- d. distributing email and mobile notifications to Users;
- e. providing administrative support and reporting to the Institution;
- f. providing an optional financial account to Users; and
- g. providing the Institution the ability to create a customized Debit Card which serves an institutional purpose, and sending such Debit Card to all Users.

Customers Bank shall disburse all Disbursements to Users, subject to the pricing listed in Section 9.1. Disbursements that constitute Federal Student Aid credit balances under Title IV of the Higher Education Act of 1965 (the "Title IV Regulations") will be directly paid to Users within the timeframes set forth in and in accordance with the cash management regulations promulgated by the U.S. Department of Education under the Title IV Regulations. Users shall have the option to receive Disbursements deposited directly through an electronic ACH transfer to a third party bank account, directly into a financial account offered by Customers Bank, or by paper check. If a User does not have a valid refund preference selection and such Disbursement is subject to the Title IV Regulations, Customers Bank shall issue a check to such User within the meaning of the Title IV Regulations no later than the timeframe set forth by the Title IV Regulations. To initiate the Disbursement, the Institution will provide to Customers Bank data indicating recipients of funds. To confirm the disbursement request, the Institution must wire transfer the funds to an account designated by Customers Bank.

Customers Bank shall produce and mail a refund selection kit containing a personal code to each User. If the Institution elects to create a customized Debit Card which serves an institutional purpose within the meaning of the Title IV Regulations, the refund selection kit will contain a personal code and a Debit Card. Upon the request of the Institution, Customers Bank will provide functionality to allow integration between the Debit Card and the Institution's Campus Transaction System.

Customers Bank will also process and disburse refunds due to parents of Users ("PLUS Loan Refunds"). PLUS Loan Refunds will be issued via paper check or to Customers Bank Accounts.

3. Marketing

Customers Bank shall have the limited right and license, for the purpose of fulfilling all of the Services, to use the current and future respective name, trademarks, service marks, copyrights and logos of the Institution. Specifically, the Institution gives permission to Customers Bank and its check printing vendor to use the Institution name and the Institution logos for the purpose of check printing. This and any similar permission is granted royalty-free and may be used exclusively by Customers Bank and its affiliates for Customers Bank Accounts and the Debit Card.

Customers Bank will develop and distribute information marketing the Services to Users by any one or more of the following methods: email, direct mail, telephone, Institution distributed mail, posters, brochures, press releases, and

news advertisements. Customers Bank and the Institution will jointly approve any marketing materials using Institution marks and postings on the Institution's website concerning the Services. The Institution agrees to not create, re-create, alter, amend, or adjust Customers Bank marketing materials after the parties jointly approve the same. Any subsequent changes to Customers Bank marketing materials must be requested in writing by the Institution and approved by Customers Bank. Customers Bank will contact Customers Bank Account holders with information regarding their accounts and related services, as permitted or required by law. The Institution will allow Customers Bank to include marketing materials in appropriate Institution mailings as permitted by the Title IV Regulations. Additionally, the Institution must provide Customers Bank a means of contacting all Users electronically to administer the Services.

4. Customer Service

Customers Bank will maintain its standard website that will provide the following functions: Customers Bank Account information, including transaction information, electronic funds transfer request capability, disbursement status information, customer service contact information and other relevant Customers Bank and Institution information. For additional customization of website functionality above the standard offering, Customers Bank will provide a price quote to the Institution prior to commencing customization work. Customers Bank shall provide industry standard customer service with respect to the Services for every User. Communication channels between the Users and Customers Bank shall include phone, email, US mail and website. Website availability shall be subject to scheduled and unscheduled downtime, which Customers Bank shall communicate to the Institution if possible.

5. ATMs

The Institution acknowledges that the Title IV Regulations require that higher education institutions, or third party servicers acting on their behalf, that offer a bank account or debit card product to their students ensure that such students have convenient access to funds in the financial account through a surcharge-free national or regional ATM network that has ATMs sufficient in number and housed and serviced such that funds provided pursuant to a Title IV of the Higher Education Act program ("Title IV HEA Program") are reasonably available. Customers Bank will assist the Institution in complying with this requirement by providing access to a surcharge-free regional or national ATM Network for Institution's Users or by another manner permissible pursuant to the Title IV Regulations.

6. Rewards and Deals

Customers Bank, one of its affiliates or a third party contracted by Customers Bank, may maintain various rewards and incentive programs, from time to time, that would be available to Users. Customers Bank, one of its affiliates or a third party contracted by Customers Bank, shall be responsible for the recruitment and management of participating merchants, deals and other promotions, and the assignment and administration of any User benefits. Customers Bank shall be responsible for informing Users of any such programs offered and the associated terms and conditions of the respective programs.

7. Optional Services (upon mutual agreement)

Customers Bank and the Institution may agree that Customers Bank shall provide the Institution additional services under this Agreement (which are not otherwise included pursuant to the terms of this Agreement). To the extent that Customers Bank and the Institution agree that Customers Bank shall provide certain optional services, such additional optional services may only be added by a written amendment, addendum or additional exhibit to this Agreement, and additional charges for such optional services may apply. These services include, but are not limited to, the following:

- a. assuming payroll processing, such as direct deposit; and
- b. offering various alumni products and services.

8. Miscellaneous Customers Bank Obligations

Pursuant to the terms of this Agreement, Customers Bank shall be responsible for the following actions:

- a. producing and mailing a refund selection kit to each User within five (5) business days of a kit being requested by the Institution or User; and
- b. providing secure logins to authorized representatives of the Institution that will allow access to Customers Bank's standard reports online related to Disbursements and other information.

The Institution shall be responsible for the protection and the management of the logins of each of its authorized representatives into Customers Bank's systems and shall be liable for any disclosure, theft or abuse of logins.

9. Charges to the Institution

The Institution shall pay to Customers Bank the fees and amounts as described below. The Institution acknowledges that the fees and other amounts due to Customers Bank, as set forth below, do not include taxes, duties or other governmental charges including, but not limited to, sales, use, excise, and value added taxes (but excluding any taxes imposed on Customers Bank's income), and the Institution

shall pay such taxes if applicable and levied or imposed by any government authority in connection with the Services.

9.1 Institution Charges

(a) Intentionally Blank

(b) Fees: The Institution agrees to pay Customers Bank an annual subscription fee in an amount equal to **\$7,500** for the Services (the "Subscription Fee"). The Institution agrees to pay Customers Bank the Subscription Fee as invoiced by Customers Bank.

Additional charges will be charged to the Institution as incurred and shall include:

- i. Per Electronic Disbursement (ACH or Customers Bank Account): \$0.15
- ii. Per Check Disbursement (includes any and all checks): \$1.50

Customers Bank will collect all replacement card fees directly from Users.

Customers Bank shall provide refund selection kit to Users who are credit-seeking students enrolled at the Institution.

To the extent that the Institution processes less than 90% of all Disbursements through Customers Bank's Refund Management® system in any given semester, Customers Bank reserves the right to charge the Institution an account maintenance fee of \$1 per month per User.

(c) Additional Charges: The Institution may request the optional services (which are not otherwise included pursuant to the terms of this Agreement) and the cost of such services shall be quoted upon request. For the avoidance of doubt, to the extent that Customers Bank and the Institution agree that Customers Bank shall provide any of the optional services listed in this subsection (c), such additional optional services may only be added by a written amendment, addendum or additional exhibit to this Agreement, and additional charges for such optional services may apply. The optional services available are:

- a. non-standard features on the Customers Bank website and custom reports;
- b. exception handling for Disbursements;
- c. non-basic marketing support or changes to standard marketing materials;
- d. modifications to the Debit Card design after approval, or additional card features such as proximity or smart chips (pricing above includes standard embossed mag-stripe cards only);
- e. assistance in de-converting from the Services;

- f. excessive data transfer (charged in the event that unnecessary files and/or data are uploaded to Customers Bank’s system);
- g. campus visits requested by the Institution after the implementation and launch of the Services; and
- h. additional training requested post implementation and launch of the Services.

Address Line 1	5001 St. Johns Avenue
Address Line 2	
City, State, Zip Code	Palatka, FL 32177
Email Address (for electronic invoices)	randypeterson@sjrstate.edu
Contact Phone No.	

The aforementioned optional services will be quoted at Customers Bank’s then standard hourly rates. The current standard hourly rate is \$275 per hour for technical and project management time. For large projects, discounts on the standard hourly rates may be available.

9.2 Invoices

To the extent that an invoice is issued to the Institution for charges incurred, the Institution shall pay such invoices within thirty (30) days of the date of the invoice. In the event any amounts due remain unpaid beyond the 30th day, Customers Bank reserves the right to charge the Institution a late fee of 1.5% of the unpaid amount for each month such amount remains unpaid. With the exception of any amounts that the Institution disputes in writing in good faith within thirty (30) days of invoice date, the Institution agrees that it shall neither make nor assert any right of deduction or set off from fees on invoices submitted by Customers Bank. Customers Bank agrees that it will not increase the fees set forth in the Agreement during the initial term of this Agreement or during any subsequent renewal terms. The Institution acknowledges that the above pricing structure is based on Customers Bank being allowed to provide all of the Services contained in this Agreement. Any change to the terms, scope, timeline or the Services may result in a modification to the pricing set forth above. Customers Bank does not waive its right to collect fees owed to Customers Bank due to an error contained in an invoice or by the acceptance of a partial payment.

Please complete the following contact information block with the appropriate Institution billing information:

Primary Billing Contact & Title	Randy Peterson, Controller
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Exhibit B

Terms and Conditions

1. PROVISIONS OF SERVICES

1.1 Terms Governing Services. This exhibit sets forth the terms and conditions applicable to any of the Services which may be provided by Customers Bank to the Institution during the Term.

1.2 Changes or Additions to Scope. Either party may propose a change to any exhibit, or any additional services to be provided by Customers Bank to the Institution under an additional exhibit; however, no such change or additional services shall become part of this Agreement unless and until accepted and agreed in writing by both parties. Upon such execution, such amended or supplemental exhibit (and any of the Services) shall become part of this Agreement.

1.3 Conditions Precedent to Services. Customers Bank's obligations hereunder shall be subject to obtaining regulatory and third party approvals needed to provide the Services.

2. INSTITUTION OBLIGATIONS

The Institution understands and agrees that Customers Bank's performance of its obligations hereunder is dependent upon the Institution's cooperation and timely performance of certain tasks and obligations. These tasks and obligations are set forth below and shall include, but are not limited to:

- a. assigning adequate personnel to assist Customers Bank in the performance of the Services and providing assistance to and coordinating with third party providers of the Institution System to facilitate the timely implementation and performance of the Services;
- b. providing any technical data and other technical information necessary for access to the Institution System and for the performance of the Services;
- c. facilitating any integration and coordinating with the Institution System third party vendors including but not limited to Campus Transaction System, ERP and other providers (as applicable) in order to connect the Services with the Institution System;
- d. maintaining and operating all of the features and functionalities of the Institution System, unless otherwise expressly stated in Exhibit A, and protecting all information stored on the Institution System;
- e. assisting Customers Bank in the design of marketing information related to the Services;
- f. providing Customers Bank the right to have marketing materials related to the Services included within Institution mailings to Users, continuing to remain responsible for any expenses, including postage, relating to the Institution distributed mailings to Users;
- g. except for agreements between the Institution and a Tier Two provider, as that term is used in the Title IV Regulations, refraining from entering into any agreement or similar relationship with any other third party provider relating to refund disbursement or to the co-branding of checking accounts and/or debit, store-valued or equivalent cards during the Term;
- h. providing (i) access to and assistance with marketing information related to the Services to be distributed to Users by the Institution and (ii) timely decisions and approvals necessary for the timely delivery of the Services;
- i. generating and distributing of payroll stubs and associated tax-related information to the extent that Customers Bank is handling payroll disbursements;
- j. issuing and distributing temporary cards, which will not be Debit Cards in the event that the Institution desires to provide Users with a temporary card in the case of loss or theft of a User's Debit Card which serves an institutional purpose;
- k. providing Institution Data to Customers Bank to perform the Services;
- l. reviewing, on an annual basis, Customers Bank's policies and procedures as set forth in Customers Bank's Department of Education Compliance Handbook pertaining to the Services and abiding by those policies and procedures;
- m. conducting reasonable due diligence reviews at least every two years, with the first review to be completed by July 1, 2018, in accordance with Department of Education ("DOE") regulations;
- n. disclosing, conspicuously on its website, no later than September 1, 2016, this Agreement and providing to the Secretary of the DOE an updated URL containing the Agreement for publication in a centralized database accessible to the public; provided, however that the parties shall have the right to redact from this Agreement any information that, if disclosed, would compromise either party's personal privacy, proprietary information, or the security of information technology or of physical facilities;
- o. disclosing, conspicuously on its website no later than September 1, 2017, the total consideration for the most recently completed award year paid to or received by the parties under the terms of this Agreement or any other agreements between Customers Bank and the Institution concerning the Services;
- p. disclosing, conspicuously on its website, no later than September 1, 2017, the number of accounts opened under this Agreement, and the mean and median actual costs incurred by accountholders for the previous calendar year, during any year in which the Institution's enrolled students open thirty (30) or more financial accounts;
- q. notifying the DOE within ten (10) days of the date that it (i) enters into a new third-party servicer contract or significantly modifying an existing contract; (2) terminates a third-party servicer contract; or (3) ceases the performance of the functions required under a third-party servicer contract, goes out of business, or files a bankruptcy petition; and
- r. providing Customers Bank the date on which a credit balance is created;

Customers Bank agrees to assist the Institution by providing the needed data elements to satisfy the disclosure

requirements set forth in subsections (n) through (p). All data provided by Customers Bank for these disclosure requirements will be provided in the Department of Education's prescribed format.

3. COMPLIANCE AND WARRANTIES OF PARTIES

3.1 Compliance. Customers Bank and the Institution shall comply in all material respects with any Government Rules, Operating Rules and Customers Bank Materials applicable to the Services and/or the performance of their obligations hereunder including, but not limited to the Title IV Regulations and the operative interpretation of such regulations by the DOE. The Institution and Customers Bank further agree that neither shall be obligated to comply with the terms of this Agreement, or any portion thereof, if doing so would cause such party to be in violation of Government Rules including, but not limited to, Title IV Regulations. In the event that there is a conflict between the terms of this Agreement and any of Government Rules or any interpretations of thereof by an applicable regulator or court of competent jurisdiction, Government Rules shall govern. The Institution agrees that it shall determine, in its sole discretion, whether it has entered into a tier two arrangement per the Title IV Regulations and that it will notify Customers Bank of any such arrangement. If the Institution determines it has entered into a tier two arrangement, the Institution and/or the other party subject to the tier two arrangement shall be responsible for compliance with all applicable Government Rules.

3.2 Customers Bank. Customers Bank represents and warrants that: (i) its performance of the Services materially complies with all applicable Government Rules; (ii) none of the Customers Bank Materials contains any defamatory, damaging, obscene or offensive materials, or any materials that knowingly infringe or breach any third party's copyrights, trade secrets or other intellectual property rights; and (iii) all storage, maintenance and use of the Institution Data by Customers Bank will materially be in compliance with all Government Rules.

3.3 Title IV Program Compliance. Customers Bank agrees to the following: (i) to comply with all statutory or regulatory provisions, and special arrangements, agreements, limitations, suspensions, and terminations entered into under Title IV HEA Program; (ii) to refer to the DOE Office of Inspector General for Investigations any information indicating there is reasonable cause to believe either: (a) the Institution might have engaged in fraud or other criminal misconduct in connection with the Institution's administration of any Title IV HEA Program, or (b) an applicant for Title IV HEA Program assistance might have engaged in fraud or other criminal misconduct in connection with his or her application; (iii) to be jointly and severally liable with the Institution for any violation by Customers Bank of any statutory or regulatory provisions, and special arrangements, agreements, limitations, suspensions, and terminations entered into under the Title IV HEA Program; (iv) to make available to the Institution all records in Customers Bank's possession pertaining to the Institution's participation in the program or programs for which the Services are no longer provided, if this Agreement is terminated, or Customers Bank stops providing the Services, goes out of business, or files a petition under the US Bankruptcy Code; (v) to comply with the provisions of the Customers Bank Department of

Education Compliance Handbook applicable to Customers Bank; and (vi) to submit any required compliance audit to the U.S. Department of Education.

3.4 Institution. The Institution represents and warrants to Customers Bank that: (i) it has obtained in writing any licenses, permits, registrations, waiver or other authorizations from any party necessary for Customers Bank to access and use the Institution Data and Institution System to perform the Services; (ii) the Institution Data is complete and accurate, to the best of the Institution's knowledge, and the Institution has reasonable and appropriate procedures to insure same; and (iii) the Institution Data and the Institution System do not contain any defamatory, damaging, obscene or offensive materials, or any materials that infringe or breach any third party's copyrights, trade secrets or other intellectual property rights.

4. CONFIDENTIALITY

4.1 Confidential Information. Customers Bank and the Institution each acknowledges that confidential and proprietary information that has commercial value to the disclosing party in its business that is not in the public domain will be disclosed to the other party. For purposes of this Agreement, "Confidential Information" shall mean (i) all information of a party that is marked "confidential", "proprietary", "internal" or with a similar designation or that from the circumstances a party should reasonably understand to be confidential or proprietary to the other party and (ii) trade secrets, confidential knowledge, know-how, software, technical information, data or other proprietary information or business information regarding business planning and operations of disclosing party.

4.2 Obligations. Each party shall only use the Confidential Information of the other party to perform its obligations under this Agreement. Each party will use at least the same degree of care, but not less than reasonable care, and to the extent permitted by Government Rules, to prevent any disclosure to third parties of the Confidential Information of the other party as it employs to avoid unauthorized disclosure, publication or dissemination of its own information of a similar nature; provided, however, that each party may disclose such information to its employees, agents, subcontractors and vendors who have a need to know such information, who have been advised by the disclosing party of the obligation to preserve such information's confidentiality, and who have entered into a written confidentiality agreement containing obligations materially similar to those contained in this Section. The disclosing party shall be responsible for any breach by any of its employees, agents, subcontractors or vendors of any such confidentiality obligations. Upon expiration or termination of this Agreement for any reason, each party shall return promptly to the other party all Confidential Information in such party's possession and certify in writing to the other party its compliance with this sentence.

4.3 Personal Identifying Information. When providing data to Customers Bank to aid in the disbursement of student funds, the Institution agrees that it will not send Customers Bank either the full or partial social security number for any User. Customers Bank agrees to use Personal Identifying Information in compliance with 34 C.F.R. § 668.164(e)(2)(ii).

4.4 Exclusions. Notwithstanding the foregoing, this Section will not apply to any Confidential Information of a party that the other party can demonstrate as evidenced by written records: (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure not subject to any confidentiality obligation; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it; (v) was independently developed by or for the receiving party without reference to Confidential Information of the furnishing party; or (vi) may be required to be disclosed under Government Rules, or as may be required to comply with legal process, provided, however, that the disclosing party shall first give the other party notice of any such disclosure and shall only disclose so much of the other party's Confidential Information as is necessary to comply with the applicable legal requirement or process. Institution Data shall not be deemed Confidential Information for purposes of this Section but shall be subject to Section 6.

4.5 Equitable Remedies. Each party acknowledges that, to the extent that it breaches (or threatens to breach) its obligations under this Section, the other party will be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or threatened to breach) any such obligations, such party will not oppose the entry of an appropriate order restraining it from any further breaches (or threatened breaches).

5. INSTITUTION DATA

5.1 Customers Bank. Customers Bank agrees to store and use the Institution Data in compliance with all Government Rules and in accordance with industry standards. Customers Bank shall share the Institution Data with third parties solely as necessary to provide the Services hereunder or as may be required to be disclosed under Government Rules or to comply with legal processes. All personal User information will be handled per Customers Bank's privacy policy (as may be revised from time to time) and in accordance with the Family Educational Rights and Privacy Act (Buckley Amendment) and the Gramm-Leach-Bliley Act, as applicable.

5.2 Institution. The Institution understands and agrees that, to the extent applicable under the provisions of Government Rules, it may be subject to examination by regulatory entities for the Services provided in connection with this Agreement. In addition, the Institution shall comply with all applicable requirements of Government Rules by taking appropriate measures to ensure the security, confidentiality, availability and integrity of all Institution Data and Confidential Information and to protect against unauthorized access to or use of such information.

6. OWNERSHIP

6.1 Customers Bank. Customers Bank shall be the sole and exclusive owner of the Customers Bank Materials, banking and Customers Bank related items on the Debit Card, and all Intellectual Property Rights in and to them and their derivative works and improvements (as each of those terms is defined and applied under Title 17 and Title 35 U.S.C., respectively) by

whomever developed or created. No ownership of the Customers Bank Materials or the Intellectual Property Rights in and to them shall be transferred to the Institution.

6.2 Institution. The Institution is and shall be the sole and exclusive owner of the Institution System, Institution related items on the Debit Card, and all Intellectual Property Rights therein.

7. INSURANCE

Prior to commencing performance, Customers Bank shall secure, and maintain in force until termination of this Agreement, not less than the following insurance coverage:

<u>TYPE OF COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Worker's Comp/Employer's Liability	Statutory Limit/\$500,000 Each Accident
Commercial General Liability	\$1,000,000 Each Occurrence and \$2,000,000 in aggregate
Commercial Auto Liability	\$1,000,000 Combined Single Limit
ERISA Fidelity/Employee Theft Excess/Umbrella Liability	\$10,000,000 \$10,000,000 Each Occurrence and in aggregate

All Customers Bank Accounts will be insured with the Federal Deposit Insurance Corporation ("FDIC"). The Institution will be named as an additional insured on the Commercial General Liability and Commercial Automobile Liability policies, and the Workers Compensation insurance carrier will waive rights of subrogation against the Institution. Evidence of such coverage will be provided to the Institution upon request.

8. INDEMNIFICATION

To the extent permitted by the laws of the state in which the Institution is located, each party (the "Indemnifying Party") will indemnify, defend and hold harmless the other party and its affiliates and their respective officers, directors, employees and agents (the "Indemnified Party") from and against any and all losses, liabilities, claims, obligations, costs and expenses (including actual and reasonable attorneys' fees), which result from or arise in connection with any breach by the Indemnifying Party of any of its warranties made including breach by the Indemnifying Party's employees, contractors, subcontractors, agents and assignees set forth herein. The Indemnifying Party shall be promptly notified of any such claim, action, or demand and shall have the right, at its own expense, to participate in the defense thereof with counsel of its own choosing; provided, however, that the Indemnifying Party's decision in connection with the defense or settlement of any such claim, action, or demand shall be final, subject to the terms otherwise contained in this Agreement. The foregoing states the entirety of the parties' obligations with respect to any claim by any third Party. Institution shall agree to indemnify Customers Bank only up to the limits set forth in 768.28 Florida Statutes \$200,000 per person and \$300,000 per occurrence. This provision shall in no way act as a waiver of sovereign immunity beyond that provided in 768.28 Florida Statutes or as a waiver of any defense that Institution would have to such claims.

9. EXCLUSIONS OF WARRANTIES AND LIMITATION OF LIABILITY

EXCEPT FOR REPRESENTATIONS OR WARRANTIES EXPRESSLY MADE IN SECTION 3.2 AND 3.4, PARTIES MAKES NO, AND HEREBY DISCLAIM ALL, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR TO ANY OTHER PERSON, WITH RESPECT TO THE SERVICES, THE CUSTOMERS BANK MATERIALS, OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. NEITHER CUSTOMERS BANK NOR THE INSTITUTION SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, UNDER ANY THEORY OF LIABILITY (WHETHER LEGAL OR EQUITABLE), AND IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY TO THE OTHER PARTY UNDER THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES RECEIVED BY CUSTOMERS BANK FROM THE INSTITUTION UNDER THIS AGREEMENT FOR THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY EXCEPT FOR CLAIMS ARISING OUT OF: (1) INFRINGEMENT OF A U.S. COPYRIGHT OR EXISTING U.S. PATENT ISSUED AS OF THE EFFECTIVE DATE; (2) THE UNAUTHORIZED DISCLOSURE OR LOSS OF CONFIDENTIAL INFORMATION; OR (3) THE DISBURSEMENT OF TITLE IV FUNDS BY CUSTOMERS BANK TO AN ADDRESS OR CHECKING ACCOUNT THAT WAS NOT SUBMITTED TO CUSTOMERS BANK BY THE INTENDED USER. FOR CLAIMS ARISING OUT OF: (1) INFRINGEMENT OF A U.S. COPYRIGHT OR EXISTING U.S. PATENT ISSUED AS OF THE EFFECTIVE DATE; (2) THE UNAUTHORIZED DISCLOSURE OR LOSS OF CONFIDENTIAL INFORMATION; OR (3) THE DISBURSEMENT OF TITLE IV FUNDS BY CUSTOMERS BANK TO AN ADDRESS OR CHECKING ACCOUNT THAT WAS NOT SUBMITTED TO CUSTOMERS BANK BY THE INTENDED USER, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF CUSTOMERS BANK TO INSTITUTION UNDER THIS AGREEMENT EXCEED \$700,000. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF INSTITUTION TO CUSTOMERS BANK EXCEED \$300,000.

10. DELAY – FORCE MAJEURE

Neither party shall be liable to the other party or be deemed to be in breach of this Agreement to the extent that performance of such party's obligations under this Agreement are delayed or prevented as a result of any event beyond the reasonable control of a party and shall include, without limitation, (i) acts of God, explosion, or fire; (ii) war or threat of war, terrorism, sabotage, riot, revolution, civil disturbance or requisition; (iii) acts, restrictions, regulations, prohibitions or measures of any kind on the part of any governmental authority; or (iv) strikes, lockouts, or other industrial actions or trade disputes. The party experiencing excusable delay shall be excused from performance of such obligations so affected by the excusable delay event for the period during which the excusable delay event continues and for such time thereafter as is

reasonably necessary to overcome the effects of such excusable delay. Both parties shall use all reasonable best efforts to overcome or work around the excusable delay event as soon as reasonably practicable. In addition, neither party shall be liable to the other party for any late or non-performance of its obligations hereunder to the extent such delay or non-performance is due to the delay or non-performance by such other party of its obligations hereunder. Unauthorized

11. TERM; TERMINATION

11.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for the period of time set forth on the first page of this Agreement, unless earlier terminated pursuant to the terms herein. This Agreement will be renewed in accordance with the terms set forth on the first page of this Agreement. In the event that a change in applicable laws and/or regulations results in Customers Bank no longer being able to offer the Services in a commercially reasonable manner as determined by Customers Bank, Customers Bank shall be able to terminate this Agreement upon 120 days notice to the Institution without penalty. The initial term and any renewal term shall be referred to collectively as the "Term".

11.2 Termination for Cause. If either party fails to perform any of its material obligations under this Agreement (including failure to pay any amounts when due) and does not cure such failures within ninety (90) days (or such other time period as may be provided hereunder) after being given written notice specifying the nature of the failure, then the non-defaulting party may, by giving written notice to the other party, terminate this Agreement as of the date specified in such notice of termination. Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated immediately for cause at any time by written notice given by either party upon any final determination by any court that this Agreement or any material aspect of the activities to be conducted hereunder is illegal as a matter of law where the parties cannot in good faith negotiate an amendment to the Agreement or such activities to bring it or them into compliance after 120 days of such final determination. Notwithstanding the foregoing, in the event that a change in Government Rules, or a change in the interpretation of such Government Rules, results in Customers Bank no longer being able to offer the Services in a commercially reasonable manner as determined by Customers Bank or the Institution, either party shall have the right to terminate this Agreement without penalty upon 120 days notice to the other party.

11.3 Termination for Student Complaints or Fee Amounts. Notwithstanding anything to the contrary contained herein, the Institution may terminate the Agreement in accordance with the requirements set forth in 34 C.F.R. §668.164(e)(2)(ix) of the Title IV Regulations. If the Institution terminates this Agreement pursuant to this section, it shall provide Customers Bank with documented support and provide reasonable notice to Customers Bank.

11.4 Survival. Any and all payment obligations under this Agreement, any applicable definitions and the following sections of this exhibit shall survive any expiration or termination of this Agreement: 4, 5, 6, 8, 9, 12 and 13.

11.5 Termination Procedures. Both parties shall be involved in notifying Users of a termination of the Services provided pursuant to this Agreement and the options they may exercise as a result of such termination. Users are responsible to decide whether to maintain their respective Customers Bank Account through Customers Bank or to actively change their banking relationship. De-conversion charges may apply at Customers Bank's then current standard hourly rates.

12. ARBITRATION, GOVERNING LAW AND VENUE

12.1 Arbitration. Intentionally Blank.

12.2 Law and Venue. The laws of United States and the State of Florida shall govern this Agreement, without regard to its conflicts of laws principles. Each of the parties hereby submits to the jurisdiction of the state and federal courts located in the state in which the Institution is located as set forth herein.

13. GENERAL

13.1 Independent Contractor Relationship. Customers Bank is acting as an independent contractor under this Agreement and nothing in this Agreement shall be deemed or construed to create a partnership, joint venture or employer-employee relationship between the parties. Neither party has, and shall not hold itself out as having, any authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or binding upon the other party.

13.2 Notices. Any notice to be given hereunder to any other party, including any notice of a change of address, shall be in writing and shall be deemed validly given if (i) delivered personally, (ii) sent by express delivery service, registered or certified mail, postage prepaid, return receipt requested or (iii) sent by facsimile or email, as follows:

- If to Customers Bank:
Customers Bank
115 Munson Street
New Haven, CT 06511
Attn: Contract Administrator
Email: contracts@bankmobile.com
Fax: 203-776-7796
- If to the Institution:
See the Institution's address on first page of this Agreement.

All such notices shall be deemed given on the date of actual receipt by the addressee if delivered personally, on the date of deposit with the express delivery service or the postal authorities if sent in either such manner, on the date the facsimile or email is sent if sent in such manner, and on the date of actual receipt by the addressee if delivered in any other manner.

13.3 Subcontracting. Customers Bank shall have the right to utilize the services of subcontractors in performing the Services, provided that Customers Bank shall retain responsibility to the Institution for performance of the Services under this Agreement. Customers Bank shall only share the personal identifying information of Users in compliance with Government Rules.

13.4 Publicity. The Institution agrees that Customers Bank may reference the Institution as its client, including using the Institution name, service marks, copyrights, licenses, trademarks, logos, colors, slogan, mascot and Debit Card design in the Services, sales and marketing materials, website, and customer service.

13.5 Amendment or Waiver. No amendment or modification of this Agreement shall be valid unless it is in writing and signed by both parties.

13.6 Headings and Captions. The headings and captions of this Agreement are included for convenience only and shall not be considered in construction of the provisions hereof.

13.7 Severability. If any provision of this Agreement shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of this Agreement, which shall be construed as if such invalid or unenforceable provision had never been a part of this Agreement but in a manner so as to carry out as nearly as possible the parties' original intent.

13.8 Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

13.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any letters of intent, memorandums of understanding, confidentiality agreements, and other agreements and communications, oral or written, between the parties regarding such subject matter.

13.10 Assignment. Notwithstanding the language set forth in section 4.10 of the ITN, in the event that BankMobile becomes a separate legal entity from Customers Banks, Customers Bank shall have the right to assign this Agreement in its entirety to BankMobile provided BankMobile agrees in writing to be bound by the terms and conditions of this Agreement, and in the event that Customers Bank does assign this Agreement to BankMobile, Customers Bank shall have no further liability hereunder provided that BankMobile agrees in writing to assume all of Customer Bank's rights, obligations and liabilities under this Agreement.

13.11 Books and Records. Customers Bank will maintain accurate books and records of all funds received and disbursed in connection with its scope of work, including any and all documentation of any kind, correspondence, and other papers and documents relating to this Agreement. All books and records, relating to the Institution program, are to be prepared and kept in accordance with generally accepted accounting principles consistently applied. Customers Bank shall ensure adequate control over all books, records, and files, relating to the Institution program. Customers Bank shall preserve all such books and records for at least three (3) years after the close of the calendar year to which they relate and are subject to audit, or for such time period as is required by law for records retention.

13.12 Public Records. To the extent that Customers Bank meets the definition of "contractor" under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Customers Bank must comply with public records

laws, including the following provisions of Section 119.0701, Florida Statutes:

- (a) Keep and maintain public records required by Institution to perform the service.
- (b) Upon request from Institution's custodian of public records, provide Institution with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Customers Bank does not transfer the records to Institution.
- (d) Upon completion of the contract, transfer, at no cost, to Institution all public records in possession of Customers Bank or keep and maintain public records required by Institution to perform the service. If Customers Bank transfers all public records to Institution upon completion of the contract, Customers Bank shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Customers Bank keeps and maintains public records upon completion of the contract, Customers Bank shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Institution, upon request from Institution's custodian of public records, in a format that is compatible with the information technology systems of Institution.
- (e) **IF CUSTOMERS BANK HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE INSTITUTION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (386) 312-4106, MelissaMiller@sjrstate.edu, 5001 St. Johns Avenue, Palatka, FL 32177)**
- (f) **CUSTOMERS BANK ACKNOWLEDGES THAT INSTITUTION CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO CUSTOMERS BANK WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. CUSTOMERS BANK FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON INSTITUTION OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT THEY HAVE BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS AGREEMENT. CUSTOMERS BANK ACKNOWLEDGES THAT ITS FAILURE TO**

COMPLY WITH FLORIDA LAW AND THIS AGREEMENT WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT AND GROUNDS FOR TERMINATION.