

MASTER SERVICES AGREEMENT

“Institution”: Thomas Jefferson School of Law  
“Institution Address”: 701 B Street, Suite 110, San Diego, CA 92101  
“Effective Date”: March 1, 2019  
“Project Start Date”: N/A  
“Go-Live Date”: N/A

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

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

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

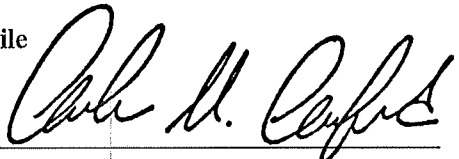
NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BankMobile and the Institution hereby agree as follows:

BankMobile 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.

The initial term of this Agreement will end on February 29, 2020. This Agreement will automatically renew for one additional period 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.

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

BankMobile  
By:   
Name: Andrew Crawford  
Title: CCO  
Date: 4/15/19

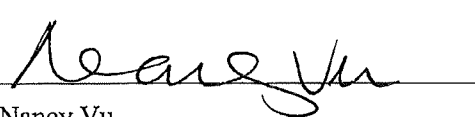
Institution  
By:   
Name: Nancy Vu  
Title: Vice President & CFO  
Date: 04/11/2019

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 BankMobile mag-stripe MasterCard® (or other network) debit card that will be provided to each Customer Bank Account holder.

**1.5 “Default Check”** shall mean a check sent to a designated student where the student has not made a refund preference selection within 21 days after being notified of its availability, BankMobile automatically mails a default check to the student before the expiration of the 21-day period.

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

**1.7 “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.

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

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

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

**1.11 “BankMobile 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 BankMobile to the Institution, or developed and used by BankMobile in the course of performing the Services.

**1.12 “Institution Data”** shall mean any data or information of the Institution that is provided to BankMobile 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 BankMobile to provide the Services to Users.

**1.13 “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.

**1.14 “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.

**1.15 “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).

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

**1.17 “Services”** shall mean the services to be provided by BankMobile to the Institution as set forth in Exhibit A.

**1.18 “User”** shall mean any individual who is eligible for the Services offered by BankMobile pursuant to this Agreement.

*2. General Description*

BankMobile 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;
- 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.

BankMobile 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 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 or directly into a financial account offered by Customers Bank. If a User does not have a valid refund preference selection and such Disbursement is subject to the Title IV Regulations, BankMobile 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 BankMobile data indicating recipients of funds. To confirm the disbursement request, the Institution must wire transfer the funds to an account designated by BankMobile.

BankMobile shall produce and mail a refund selection kit containing a personal code to each User. BankMobile shall also email the 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, BankMobile will provide functionality to allow integration between the Debit Card and the Institution's Campus Transaction System.

Institution may also request that BankMobile process and disburse refunds due to parents of Users ("PLUS Loan Refunds") and assume payroll processing, such as direct deposit. PLUS Loan Refunds will be issued via paper check or to Customers Bank Accounts.

### *3. Marketing*

#### *3.1 BankMobile Marketing*

BankMobile 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 BankMobile 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 BankMobile and its affiliates for Customers Bank Accounts and the Debit Card.

BankMobile 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. BankMobile 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 BankMobile marketing materials after the parties jointly approve the same. Any subsequent changes to BankMobile marketing materials must be requested in writing by the Institution and approved by BankMobile. BankMobile will contact Customers Bank Account holders with information regarding their accounts and related services, as permitted or required by law. The Institution will allow BankMobile to include marketing materials in appropriate Institution mailings as permitted by the Title IV Regulations. Additionally, the Institution must provide BankMobile a means of contacting all Users electronically to administer the Services.

#### *3.2 Institution Marketing*

Education of the refund disbursement services is a key expectation and responsibility of the institution to help introduce and promote the program to new students and provide continuing education to students on service enhancements and changes. It is vital to the integrity of the disbursement process that students receive clear information about this process and about their choices to avoid confusion.

The Institution is responsible to review all available educational resources from BankMobile ("BankMobile Educational Resources"), including the BankMobile Program Support Guide, BankMobile Vibe Web Tool Kit, BankMobile Self Service Online Storefront, template press release and advertisement for the student newspaper ("Educational Resources"). During the launch process, the Institution will designate a representative to be responsible to order and distribute the BankMobile Educational Resources.

It is expected that the Institution will provide the BankMobile Educational Resources to promote the refund disbursement services at service launch and the start of new academic terms. It is also expected that the Institution will include the BankMobile Educational Resources in the admissions, financial aid and acceptance process and promote the refund disbursement services at new student orientations, parent orientations, student government organizations and in the campus newsletter. The Institution is expected to review and update the BankMobile Educational Resources on their properties on an ongoing basis to ensure the most recent materials are being used in compliance with federal regulations.

The Institution is expected to provide continuing education of the refund disbursement services to students and staff by providing materials around the campus with posters, brochures and flyers in places that students will see them like Student Unions, Bookstores, Dining Halls, Residence Dorms, Business Offices, Financial Aid Offices, Admissions Offices and other select locations. It is also expected that the Institution will promote and provide program education on the institution web site as well as other available digital means such as emails and text messaging.

#### *4. Customer Service*

BankMobile 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 BankMobile and Institution information. For additional customization of website functionality above the standard offering, BankMobile will provide a price quote to the Institution prior to commencing customization work. BankMobile shall provide industry standard customer service with respect to the Services for every User. Communication channels between the Users and BankMobile shall include phone, email, US mail and website. Website availability shall be subject to scheduled and unscheduled downtime, which BankMobile 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. BankMobile 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*

BankMobile, one of its affiliates or a third party contracted by BankMobile, may maintain various rewards and incentive programs, from time to time, that would be available to Users. BankMobile, one of its affiliates or a third party contracted by BankMobile, shall be responsible for the recruitment and management of participating merchants, deals and other promotions, and the assignment and administration of any User benefits. BankMobile 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)*

BankMobile and the Institution may agree that BankMobile 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 BankMobile and the Institution agree that BankMobile 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.

#### *8. Miscellaneous BankMobile Obligations*

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

- a. offering students a secure method to authenticate their identity and provide their disbursement instructions to BankMobile; and
- b. providing secure logins to authorized representatives of the Institution that will allow access to BankMobile’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 BankMobile’s systems and shall be liable for any disclosure, theft or abuse of logins.

#### *9. Charges to the Institution*

The Institution shall pay to BankMobile the fees and amounts as described below. The Institution acknowledges that the fees and other amounts due to BankMobile, 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 BankMobile’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) Set-up and Implementation Costs: Intentionally Omitted.

(b) Fees: The Institution agrees to pay BankMobile an annual subscription fee in an amount equal to \$5,000 for the Services (the “Subscription Fee”). The Institution agrees to pay BankMobile the Subscription Fee within thirty (30) days of the Effective Date of this Agreement. Thereafter, the Institution agrees to pay BankMobile the Subscription Fee on or before the anniversary of the Effective Date of each respective calendar year, for the term of the Agreement.

The Subscription Fee shall include:

- i. Electronic Disbursements (ACH or Bank Account Provided by Customers Bank)
- ii. Default Checks

To the extent that the Institution processes less than 90% of all Disbursements through BankMobile’s Refund Management® system in any given semester, BankMobile 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 BankMobile and the Institution agree that BankMobile 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 BankMobile 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 BankMobile’s system);
- g. any additional services that have been mutually agreed upon by both parties;

The aforementioned optional services will be quoted at BankMobile’s then standard hourly rates. The current standard hourly rate is \$275 per hour for technical and project management time. For large projects, we will negotiate an appropriate and mutually agreed upon rate.

**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 30<sup>th</sup> day, BankMobile 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 BankMobile. Additionally, BankMobile reserves the right to increase any fees by a factor not to exceed six-percent (6%) per annum. The Institution acknowledges that the above pricing structure is based on BankMobile 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. BankMobile does not waive its right to collect fees owed to BankMobile 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:

<b>Billing Contact &amp; Title</b>	Nancy Vu, VP & CFO
<b>Address Line 1</b>	701 B Street
<b>City, State, Zip Code</b>	San Diego, CA 92101
<b>Email Address (for electronic invoices)</b>	nancyv@TJSL.edu

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 BankMobile 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 BankMobile 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.** BankMobile'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 BankMobile'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 BankMobile 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) to connect the Services with the Institution System;
- d. maintaining and operating all 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 BankMobile in the design of marketing and education information related to the Services;
- f. providing BankMobile 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. 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 BankMobile 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 BankMobile to perform the Services;
- l. reviewing, on an annual basis, BankMobile's policies and procedures as set forth in BankMobile'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 in accordance with Department of Education regulations;
- n. disclosing, conspicuously on its website this Agreement and providing to the Secretary of the Department of Education 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 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 BankMobile and the Institution concerning the Services;
- p. disclosing, conspicuously on its website 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 Department of Education 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;
- r. providing BankMobile the date on which a credit balance is created; and
- s. executing BankMobile's Institutional Purpose Verification form if the Debit Card serves an institutional purpose.

BankMobile agrees to assist the Institution with the disclosure requirements set forth in subsections (n) through (p).

### 3. COMPLIANCE AND WARRANTIES OF PARTIES

**3.1 Compliance.** BankMobile and the Institution shall comply in all material respects with any Government Rules, Operating Rules and BankMobile 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 BankMobile 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 BankMobile of any such arrangement. If the Institution determines it has entered into a tier two arrangement, the Institution and the other party subject to the tier two arrangement shall be responsible for compliance with all applicable Government Rules and shall enter into an agreement indemnifying BankMobile for any and all representations and warranties associated with the financial account offered under the tier two arrangement prior to BankMobile listing such a financial account on its refund selection website.

**3.2 BankMobile.** BankMobile represents and warrants that: (i) its performance of the Services materially complies with all applicable Government Rules; (ii) none of the BankMobile 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 BankMobile will materially be in compliance with all Government Rules.

**3.3 Title IV Program Compliance.** BankMobile 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 Department of Education 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 BankMobile 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 BankMobile'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 BankMobile stops providing the Services, goes out of business, or files a petition under the US Bankruptcy Code; and (v) to submit

any required compliance audit to the U.S. Department of Education.

**3.4 Institution.** The Institution represents and warrants to BankMobile that: (i) it has obtained in writing any licenses, permits, registrations, waiver or other authorizations from any party necessary for BankMobile 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.** BankMobile 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 BankMobile to aid in the disbursement of student funds, the Institution agrees that it will not send BankMobile either the full or partial social security number for any User.

**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 5.

**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 BankMobile.** BankMobile agrees to store and use the Institution Data in compliance with all Government Rules and in accordance with industry standards. BankMobile 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 BankMobile'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 BankMobile.** BankMobile shall be the sole and exclusive owner of the BankMobile Materials, banking and BankMobile 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 BankMobile 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, BankMobile 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	\$10,000,000
Excess/Umbrella Liability	\$10,000,000 Each Occurrence and in aggregate

All Customers Bank Accounts will be insured with the Federal Deposit Insurance Corporation ("FDIC"). If requested by the Institution in writing, 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.

**9. EXCLUSIONS OF WARRANTIES AND LIMITATION OF LIABILITY**

EXCEPT FOR REPRESENTATIONS OR WARRANTIES EXPRESSLY MADE IN SECTION 3.2, BANKMOBILE MAKES NO, AND HEREBY DISCLAIMS 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 NONINFRINGEMENT) TO THE INSTITUTION, OR TO ANY OTHER PERSON, WITH RESPECT TO THE SERVICES, THE BANKMOBILE MATERIALS, OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. NEITHER BANKMOBILE 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 BANKMOBILE FROM THE INSTITUTION UNDER THIS AGREEMENT FOR THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

## 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.

## 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 BankMobile no longer being able to offer the Services in a commercially reasonable manner as determined by BankMobile, BankMobile 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 BankMobile no longer being able to offer the Services in a commercially reasonable manner as determined by BankMobile, BankMobile shall have the right to terminate this Agreement without penalty upon 120 days notice to the Institution.

**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 BankMobile with documented support and provide reasonable notice to BankMobile.

**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 BankMobile Account through BankMobile or to actively change their banking relationship. De-conversion charges may apply at BankMobile's then current standard hourly rates.

## 12. ARBITRATION, GOVERNING LAW AND VENUE

**12.1 Arbitration.** If permitted under the laws of the state in which the Institution is located, the parties agree that except for the right of either party to seek declaratory, injunctive or other equitable relief, or for claims related to a party's Intellectual Property Rights, any dispute or controversy arising out of or in connection with this Agreement shall be referred to arbitration for final and binding resolution. Either party to this Agreement may initiate arbitration of the dispute by the filing of an application for resolution by one arbitrator appointed by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in the city and state in which the Institution is located as set forth above. The award in the arbitration shall be final, binding and non-appealable. The award may be entered as a final, non-appealable judgment in any court having jurisdiction. Each party specifically agrees and acknowledges that this Section is a material term of this Agreement and acknowledges that it would not enter into this Agreement in the absence of this Section. Each party warrants and represents to the other party that this Section is valid and enforceable and the other party will incur damages if such representation is false.

**12.2 Law and Venue.** The laws of United States and the Commonwealth of Pennsylvania 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.** BankMobile 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 BankMobile:  
BankMobile  
115 Munson Street  
New Haven, CT 06511  
Attn: Contract Administrator  
Email: [contracts@bankmobile.com](mailto: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.** BankMobile shall have the right to utilize the services of subcontractors in performing the Services, provided that BankMobile shall retain responsibility to the Institution for performance of the Services under this Agreement. BankMobile shall only share the personal identifying information of Users in compliance with Government Rules.

**13.4 Publicity.** The Institution agrees that BankMobile 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 agreement 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.** Either party may assign its rights and obligations under this Agreement.

**13.11 Books and Records.** BankMobile 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. BankMobile shall ensure adequate control over all books, records, and files, relating to the Institution program. BankMobile 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.