

**FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY BOARD OF TRUSTEES  
CAMPUS ATM/PIN-BASED DEBIT CARD AGREEMENT**

**THIS AGREEMENT** (herein "Agreement") is made and entered into effective as of April 1, 2018 ("Effective Date") by and between the Florida Agricultural and Mechanical University Board of Trustees (herein "University") and Wells Fargo Bank, National Association (herein "Bank").

**WHEREAS**, University offers a multi-purpose identification card ("FAMU RATTLER CARD/FAMU RATTLER CARD") to all enrolled students in good standing and to all faculty and staff (collectively the "Eligible University Community Members") that is used to access a variety of University facilities and on-campus services; and

**WHEREAS**, University desires Bank to provide checking account, ATM, PIN-based debit, and deposit transfer services among other banking and financial services to Eligible University Community Members in association with and accessed through the FAMU RATTLER CARD, all as more particularly described herein; and

**WHEREAS**, Bank seeks to continue its relationship with University and establish new account relationships through its affiliation with University, including but not limited to checking accounts with linked FAMU RATTLER CARDS (each such checking account referred to herein as "FAMU RATTLER CARD Bank Account").

**NOW, THEREFORE**, for valuable consideration, the parties agree as follows:

- 1. Term and Options to Extend.** The Term of this Agreement shall commence on April 1, 2018 or as of the date indicated by the last to sign as of the time this Agreement is fully executed as shown on the signature page and shall terminate on May 31, 2028 ("Termination Date"), unless otherwise terminated as provided in Section 25 (the "Term").
- 2. Grant to Use University Name and Marks.** University hereby grants Bank during the Term an exclusive, non-assignable, and irrevocable world-wide license to use, display, reproduce, and otherwise exploit the various logos and other identifying property and marks set forth on Exhibit "A" of this Agreement (collectively, the "University Marks") for the sole purpose of offering and promoting the financial products and services to Eligible University Community Members through the FAMU RATTLER CARD program. All applications of the University Marks by the Bank must conform to Exhibit "A," along with any specifications established by the University which specifications may be amended from time to time. Bank will make no other use of the University Marks or any other trademark or tradename owned by or associated with the University without, in each case, University's prior explicit written consent. Bank shall deliver all FAMU RATTLER CARD designs and all promotional and informational materials

prepared by Bank that contain any University Mark to University prior to publication for University's prior written consent which consent shall not be unreasonably withheld or unduly delayed. University also grants Bank authority to use published FAMU RATTLER CARD marketing materials as examples for prospective Bank clients or within Bank Campus Card marketing materials. Such examples will only be used if material has been previously used with the public such as printed brochures, flyers, banners and the like.

Bank acknowledges and agrees that University is the owner of the University Marks, that the limited right hereunder to use the University Marks does not confer upon Bank any license or right of ownership of the University Marks, and all use of the University Marks by Bank will inure to the benefit of University. Accordingly, Bank's limited right to the use of the University Marks for any purpose is solely by reason of this Agreement, and Bank shall not raise or cause to be raised any questions concerning, or objections to the validity of, or the right to the use of, the University Marks or the right of the University thereto, on any grounds whatsoever, or file any application for any mark, or obtain or attempt to obtain ownership of a mark or trade name, in any country of the world, which refers to or is confusingly similar to the University Marks or any mark, design or logo intended to identify the University. Upon expiration or termination of this Agreement for any reason, Bank will immediately cease any and all use of the University Marks or any variation of the University Marks on promotional and informational materials prepared by Bank in connection with this Agreement.

University does not make, and hereby disclaims, any representations or warranties with respect to the University Marks, or with respect to whether the University Marks infringe the rights of any other party, or with respect to the existence of any state or federal registration of the University Marks or design as a tradename, trademark or mark. If there is any claim against University or Bank that the University Marks or any modifications thereof, as authorized by University, infringe the rights of another party, University will, at its own expense, defend Bank's right to use of the University Marks as authorized under this Agreement. In the event any such claim is resolved adversely to University or Bank, or in the event University agrees to discontinue its use of the subject mark(s) in order to resolve any such claim, which it shall have the right to do in its sole discretion, then University agrees to indemnify Bank against any expenses Bank incurs in discontinuing use of the marks and adopting use of alternative non-infringing marks, subject to the limitation of liability set forth in Section 19. University further agrees to indemnify Bank against all liabilities Bank incurs to third parties (including, without limitation damage awards obtained by such third parties against Bank), together with Bank's reasonable costs of defending against such liabilities (including reasonable attorney fees), arising from Bank's use of the University Marks, when such usage is in accordance with the terms of this Agreement. Subject to the foregoing, if requested by the University, Bank agrees to immediately discontinue the use of any University Marks where there has been a claim of infringement and the claim has been resolved adversely to University or Bank, or where University agrees to discontinue use of the marks in order to resolve the claim.

**3. Grant to Use Bank Name and Marks.** Bank hereby grants University during the Term a non-exclusive right and license to use the marks set forth on Exhibit "B" of this Agreement (collectively, the "Bank Marks") on all FAMU RATTLER CARDS linked to a FAMU RATTLER CARD Bank Account and all promotional and informational materials prepared by University in connection with the FAMU RATTLER CARD under this Agreement. University will make no other use of Bank Marks without Bank's prior written consent. University agrees that all products and/or services offered in connection with the FAMU RATTLER CARD program shall be of a nature and quality commensurate with the nature and quality of the University's FAMU RATTLER CARD program. University shall deliver all FAMU RATTLER CARD designs and all promotional and informational materials prepared by University that contain any Bank Mark to Bank prior to publication for Bank's prior written consent.

University acknowledges and agrees that Bank is the owner of the Bank Marks, that the limited right hereunder to use the Bank Marks does not confer upon University any license or right of ownership of the Bank Marks and all use of the Bank Marks will inure to the benefit of Bank. Accordingly, University's limited right to use of the Bank Marks for any purpose is solely by reason of this Agreement, and upon expiration or termination of this Agreement for any reason, University will immediately cease any and all use of the Bank Marks or any variation of the Bank Marks on FAMU RATTLER CARDS issued after the effective date of such expiration or termination.

Bank does not make, and hereby disclaims, any representations or warranties with respect to the Bank Marks, or with respect to whether such Bank Marks infringe upon the rights of any other party, or with respect to the existence of any state or federal registration of the Bank Marks or design as a tradename, trademark or service mark. If there is any claim against Bank or University that the Bank Marks or any modifications thereof, as authorized by Bank, infringe the rights of another party, Bank will, at its own expense, defend University's right to use of the marks as authorized under this Agreement. In the event any such claim is resolved adversely to Bank or University, or in the event Bank agrees to discontinue its use of the marks in order to resolve any such claim, which it shall have the right to do in its sole discretion, then Bank agrees to indemnify University against any expenses University incurs in discontinuing use of the marks and adopting use of alternative noninfringing marks, subject to the limitation of liability set forth in Section 19. Bank further agrees to indemnify University against all liabilities University incurs to third parties (including, without limitation damage awards obtained by such third parties against University), together with University's reasonable costs of defending against such liabilities (including attorney fees), arising from University's use of the Bank Marks, when such usage is in accordance with the terms of this Agreement. Subject to the foregoing, if requested by Bank, University agrees to immediately discontinue the use of any Bank Marks where there has been a claim of infringement and the claim has been resolved adversely to Bank or University, or where Bank agrees to discontinue use of the marks in order to resolve the claim.

Except as set forth in this section, any change by Bank in the specifications for any of Bank's Marks will apply only to FAMU RATTLER CARDS issued or reissued after notice of the change is given to University. University shall be permitted to issue FAMU RATTLER CARDS using stock which is already on order with the supplier as of the time Bank notifies University of desired changes without regard to the lapse of time between ordering and receipt of the card stock, provided that University determines that such use is needed to permit its FAMU RATTLER CARD program to continue without interruption. Notwithstanding any provision of the Agreement to the contrary, if Bank desires to make changes to the Bank Marks or to eliminate the Bank Marks on cards already issued, on order, or in stock with University, Bank shall pay all of University's costs related to such changes. University shall have no obligation to reissue FAMU RATTLER CARDS with new Bank Marks solely because Bank assigns this Agreement, merges with another institution, changes its name, or is purchased by another entity, or upon expiration or termination of this Agreement.

**4. Royalties to University.** In consideration of the license and grant of rights from the University given to the Bank and more particularly described in the balance of this Agreement, Bank will make royalty payments to the University as follows:

**a. Initial Royalty Payment.**

Bank will pay \$50,000 within sixty (60) days of the commencement of this Agreement.

**b. Account Royalty Payment.**

Bank will pay University for each eligible FAMU RATTLER CARD Bank Account linked to the FAMU RATTLER CARD for the purpose of ATM/PIN-based debit functionality and owned by an Eligible University Community Member.

The number of University FAMU RATTLER CARD Bank Accounts, for purposes of the Account Royalty computation, will be determined by Bank, based upon the number of eligible FAMU RATTLER CARD Bank Accounts which have a linked FAMU RATTLER CARD. Bank will use discrete product and customer identification and will only pay University for one linked FAMU RATTLER CARD Bank Account per Eligible University Community Member. To be considered for payment, the FAMU RATTLER CARD Bank Accounts must be in good standing, funded and owned by an Eligible University Community Member at the time annual computation is computed. Bank will determine computation in conjunction with University provided total enrollment of Eligible University Community Members for the applicable academic school year (e.g., enrolled students).

The annual account royalty payment shall be based on the number of eligible FAMU RATTLER CARD Bank Accounts linked to FAMU RATTLER CARDS as a percentage of total student enrollments for the academic school year. Eligible checking accounts linked to a FAMU RATTLER CARD held by faculty and staff will be included in the numerator

of the percentage calculation but not the denominator. Accordingly, faculty and staff are not included in total student enrollment figure.

The annual account royalty payment will be calculated based on the following:

0% - 24.9%	\$5000
25% - 29.9%	\$10,000
30% - 34.9%	\$10,000
35% - 39.9%	\$12,500
40% - 44.9%	\$15,000
45% - 49.9%	\$20,000
50% - 54.9%	\$25,000
55% - 59.9%	\$30,000
60% - 64.9%	\$35,000
65% - 69.9%	\$40,000
70% - 74.9%	\$50,000
75% - 79.9%	\$60,000
80% - 84.9%	\$100,000
85% - 89.9%	\$100,000
90% - 94.9%	\$100,000
95% - 99.9%	\$100,000
100%	\$100,000

Payments described in this Section 4 shall be deemed paid upon receipt by the University at the address indicated herein for receipt of notices pursuant to Section 28.

#### **Royalty Payment Timeframes.**

##### **Initial Royalty Payment**

The initial payment to University of \$50,000.00 will be within sixty (60) days of the date the Agreement is signed by all of the parties.

##### **Annual Royalty Payments**

- Effective September 2018 and for each subsequent year of the Term, University will provide to Bank the reported total enrollment of Eligible University Community Members (e.g. enrolled students) as of the last week of October of the prior year's Fall Semester.
- Bank will calculate the annual account royalty payment based on the reported total enrollment of Eligible University Community Members (e.g. enrolled students) received from University and the number of linked FAMU Rattler Card Bank Accounts and request an invoice in that amount from University in October.
- The account royalty payment will be made by November 30.
- In the event the Agreement terminates with less than a 12-month period for calculation purposes, the final annual account royalty payment will be prorated accordingly.

**5. FAMU RATTLER CARD Operational Payments.** Bank will pay \$2,500.00 annually towards cost of the plastic card stock for each year of the Term, for the FAMU RATTLER CARD issued to Eligible University Community Members FAMU RATTLER CARD during the Term of the Agreement. University will provide Bank an invoice annually in October for any card stock reimbursement.

Bank will not pay for replacement FAMU RATTLER CARDS issued to Eligible University Community Members if they are lost or stolen or requested for other purposes. It is at the University's discretion whether to charge Eligible University Community Members for replacement FAMU RATTLER CARDS.

**Recarding**

If University chooses during the Term of this Agreement to replace outstanding cards issued previously for all existing Eligible University Community Members through a dedicated one-time recarding event, Bank will pay up to \$10,000.00 of the card replacement cost. Bank will pay only once during the Term for one recarding.

**Student Orientation Support Fee**

Bank will provide an annual new student orientation support fee of \$2500.00. University will provide invoice annually in April, payable by May 31 of each year. First such invoice is due April 2018.

**6. FAMU RATTLER CARD Bank Account.** During the Term, Bank will provide in accordance with this Section 6 a checking account linked to the FAMU RATTLER CARD for FAMU RATTLER CARD holders who have requested such an account and who meet Bank's usual checking account opening underwriting and other requirements, including without limitation a minimum opening deposit of \$25 by the FAMU RATTLER CARD holder. Nothing herein prohibits Bank from closing any FAMU RATTLER CARD Bank Account in accordance with standard deposit account procedures. A "linked" checking account is defined as a FAMU RATTLER CARD Bank Account which has a FAMU RATTLER CARD linked to it within the Bank's system, for the purpose of ATM and PIN-based debit purchase functionality.

a. Some FAMU RATTLER CARD holders may not be eligible for the FAMU RATTLER CARD Bank Account due to prior negative banking history, or other account opening requirements as Bank may establish from time to time in accordance with applicable law or Bank policy.

b. Only one checking account per FAMU RATTLER CARD holder shall be considered to be a FAMU RATTLER CARD Bank Account.

c. Enrolled students may choose the *Wells Fargo Everyday Checking* account, or other product offered by Bank, to which a FAMU RATTLER CARD may be linked. Faculty and staff may select any checking account or package for which they may be eligible to which a FAMU RATTLER CARD may be linked.

d. The FAMU RATTLER CARD Bank Accounts will be subject to the same terms and conditions (including funds availability) as the terms and conditions generally applicable to accounts of Bank's other customers of the same class, as amended from time to time, except as otherwise expressly provided in this Section 6 of this Agreement.

e. The FAMU RATTLER CARD can be linked as an access device (e.g., for ATM transactions at ATMs that accept PLUS, Star, and Pulse transactions or PIN-based purchases at merchants where Interlink or Maestro cards are accepted) to a FAMU RATTLER CARD Bank Account.

f. During the Term, should University decide to process student financial aid refund payments by electronic means, Bank agrees to accept such electronic refund transactions through the ACH System and make these funds available to University students by direct deposit to student's FAMU RATTLER CARD Bank Account or other depository account maintained by the Bank for the student, all without additional deposit-related processing charges or fees to the student.

g. Should the University request, Bank shall provide at its own expense an informational web page, maintained by Bank on its website, with a customized URL residing on the University website, dedicated to the FAMU RATTLER CARD and the FAMU RATTLER CARD holders, using a design and functionality subject to the approval of the University, which approval shall not be unreasonably withheld or unduly delayed. Bank shall be excused from its failure to perform any obligation under this subsection and shall not be responsible for any delay in such performance, to the extent that such failure or delay is due to the failure of University to provide any required approval. The website shall provide information as mutually agreed by University and Bank, which may include the following features:

- i. Information about various account offerings for FAMU RATTLER CARD holders,
- ii. Information regarding how to report lost/stolen cards including the 24/7 toll-free customer service phone number,
- iii. Link to log-in for secure online banking session, and
- iv. Information about and links to other Bank related products and services.

h. University acknowledges that Bank reviews and revises the terms, conditions, and pricing generally applicable to its deposit accounts from time to time, and agrees that nothing in this Agreement prohibits Bank from making the same changes to the FAMU RATTLER CARD Bank Accounts that it makes generally to its non- FAMU RATTLER CARD Bank Accounts.

**7. FAMU RATTLER CARD Bank Account Opening.** The FAMU RATTLER CARD Bank Accounts may be opened by Bank using Bank personnel anywhere permitted by applicable law and regulations; provided however, that University shall have the right to determine where, on the University's premises, such accounts may be opened. Bank will make its personnel available when agreed to by the parties, at dates, times and places to be agreed upon by the parties, for the purpose of accepting FAMU RATTLER CARD Bank Account applications from FAMU RATTLER CARD holders. Bank may accept deposits to Card Bank Accounts anywhere and by any means permitted by law, including without limitation Bank's offices, mobile branches and messengers, and automated teller machines ("ATMs") or other electronic means of accepting deposits.

Bank shall be responsible for obtaining information from the FAMU RATTLER CARD holder in connection with the FAMU RATTLER CARD Bank Account opening. University will not have authority or responsibility to open any accounts or accept any deposits on behalf of Bank.

Bank has the right to refuse to open a FAMU RATTLER CARD Bank Account. Bank personnel shall provide support for the implementation of the financial services associated with the FAMU RATTLER CARD program, including the opening of checking accounts for Eligible University Community Members. Additional Bank personnel will be available and assigned as reasonably needed and as mutually agreed upon to support FAMU RATTLER CARD Bank Account services during peak activity times, such as the initial re-carding process and first year student orientations.

**8. New FAMU RATTLER CARD Design and Specifications.** The FAMU RATTLER CARD that can be linked to a FAMU RATTLER CARD Bank Account shall conform to the following specifications. The front side of the FAMU RATTLER CARD will include the University Mark and design mutually selected by the parties to differentiate the new card from previous FAMU RATTLER CARDS and other CR80 size cards. The front side shall have these minimum requirements:

- i an electronically stored photo of the FAMU RATTLER CARD holder,
- ii the FAMU RATTLER CARD holder's relationship to University (faculty, staff, student),
- iii 16-digit ISO number printed on the card;
- iv the FAMU RATTLER CARD holder's first and last name, and
- v Wells Fargo logo.

The reverse side of the new FAMU RATTLER CARD shall have these minimum requirements:



- i One dedicated magnetic two-track strip encoded to conform with ISO 7812 and 7813 Standards, with the new 16-digit ISO number encoded in track two for banking use
- ii A second mag strip (two- or three-track) for dedicated campus access use
- iii Wells Fargo logo,
- iv the appropriate ATM network "bugs" as follows:  
Plus: 15mm wide X 8.25mm high
- v Visa required language:  
"ATM and purchase capability requires a linked deposit account." This copy must appear:
  - Near the Plus Mark
  - In at least 4-point Helvetica type font
- vi Instructions for reporting lost or stolen cards.

The FAMU RATTLER CARD will include such design and functionality as is necessary to provide reasonably such University benefits as University may request, such as access pass to University facilities and University provided financial services.

University shall be responsible for any costs associated with the new design of the FAMU RATTLER CARD. While University shall cooperate with Bank to create a FAMU RATTLER CARD design with the intention of maximizing market potential and having an otherwise attractive appearance, University shall retain the right to disapprove Bank's design when it finds the design to adversely impact the professional image or reputation of University or to be otherwise disadvantageous to University. Notwithstanding anything in this Agreement to the contrary, any provision contained in this Agreement regarding the design and/or specifications of the FAMU RATTLER CARD shall be subject to approval by Bank, any applicable card association rules and regulations (such as, without limitation, Visa, MasterCard and/or ATM networks) and subject to any other applicable law, rules or orders. No additional marks or logos shall be placed on the Card without prior Bank approval.

It is the University's responsibility to conduct a trademark/service mark search of the new campus card name (and logo if applicable). Bank will assist University at University's expense with an initial trademark/service mark search if requested by University. University agrees to indemnify and hold Bank harmless against all claims, liabilities and judgments Bank may incur to third parties in the event that the trademark/service mark search is not conducted or if such search indicates a possible trademark/service mark infringement and University elects to use the name or card design.

**9. Issuance of New Cards.** Eligible University Community Members will receive the University FAMU RATTLER CARD with the capability to access Bank financial services. University shall cooperate with Bank to market the FAMU RATTLER CARD. Bank and University will work together through mutually agreed upon communication methods including without limitation communications that the University will initiate such as email, campus newspaper, orientation

and acceptance mailings, etc. for the purposes of educating Eligible University Community Members about the new FAMU RATTLER CARD program with optional PIN-based debit functionality and marketing the same.

Eligible University Community Members who receive the FAMU RATTLER CARD can open a Bank checking account through a Bank representative on campus during the enrollment period or visit the local Bank store. The Eligible University Community Member will need to present the FAMU RATTLER CARD at account opening so that it can be linked in Bank's system to be eligible for ATM/PIN-based debit functionality.

For FAMU RATTLER CARD holders who already have a Bank checking account available for linking to their FAMU RATTLER CARD, once the FAMU RATTLER CARD is encoded with the appropriate 16-digit card number and upon FAMU RATTLER CARD holder's request, Bank will enter the number into Bank's system and link such number to corresponding checking account.

University will have the right to issue replacement FAMU RATTLER CARDS in accordance with the terms of this Agreement to FAMU RATTLER CARD holders, whether or not they have a FAMU RATTLER CARD Bank Account, provided University confirms that the original FAMU RATTLER CARD has been duly reported as lost or stolen to Bank by the FAMU RATTLER CARD holder.

**10. Changes to the FAMU RATTLER CARD.** University reserves the right to make mutually-agreeable alterations to the FAMU RATTLER CARD program which may require re-issuance of cards, in which case University would be responsible for out-of-pocket and other expenses directly associated with the re-issuance, except for the one-time recarding payment up to \$10,000.00 as noted in Section 5, above. Bank will dedicate the number of staff necessary to implement and maintain Bank's financial services throughout one re-issuance effort. University agrees that said changes will not diminish the financial services provided by Bank through the FAMU RATTLER CARD program and will notify Bank of proposed alterations within a reasonable time prior to making the alterations.

**11. Matters Relating to Lost or Stolen Cards; Fraudulent Use.** Should a FAMU RATTLER CARD be lost or stolen, the Bank shall provide for a system to immediately disable, upon notification of the loss or theft, the FAMU RATTLER CARD's capability for processing transactions through the FAMU RATTLER CARD Bank Account. Bank shall provide FAMU RATTLER CARD holders, without cost to the University, a toll-free phone number for the purposes of notifying the Bank of lost and stolen FAMU RATTLER CARDS. Such system of notification and account disablement shall be available twenty-four hours a day, seven days a week. Bank shall also respond to lost/stolen card reports made in-person to Bank representatives during regular Bank business hours.

Bank shall assume financial liability for transactions conducted with lost or stolen linked FAMU RATTLER CARDS in the same manner, pursuant to the same policies and to the same extent as such liability is assumed for Bank's general population of checking account customers located in the state of Florida.

**12. Persons No Longer Eligible University Community Members.** Should an individual due to an interruption in an educational program, a separation from employment, or for any other reason cease to qualify for University provided identification benefits of the FAMU RATTLER CARD, University shall in accordance with such policies and procedures as it may establish, terminate the functionality of the FAMU RATTLER CARD and its University identification benefits. However, University shall not be required to collect the FAMU RATTLER CARD; nor shall the FAMU RATTLER CARD holder be required to forfeit the FAMU RATTLER CARD. Bank may or may not discontinue the services of the FAMU RATTLER CARD Bank Account of any individual no longer qualifying as an Eligible University Community Member.

**13. Disposition of Cards Upon Termination.** Upon the termination or expiration of this Agreement for any reason, outstanding FAMU RATTLER CARDS actively serving as University's multi-function identification card and displaying the Bank Marks may or may not be replaced by University, at the University's sole discretion. Such outstanding FAMU RATTLER CARDS may continue to serve as a University identification card with such University benefits as University may choose, for so long as University desires. Further, upon termination or expiration of this Agreement, Bank shall within a reasonable time thereafter cease identifying the accounts generated under this Agreement as FAMU RATTLER CARD Bank Accounts and shall use reasonable efforts to transfer access to the accounts from the FAMU RATTLER CARDS to alternative access devices at the termination or expiration of this Agreement. The parties shall cooperate with each other in the transition of operations to any successor to the FAMU RATTLER CARD program described in this Agreement, including but not limited providing such information in such format as is reasonably requested and needed by the parties to accomplish the transition.

**14. ISO Number Ownership.** At all times, University shall be deemed to own the ISO numbers associated with the FAMU RATTLER CARDS issued pursuant to this Agreement.

**15. Vendor Support.** Bank plans to continue its membership in various ATM network associations, POS network associations, and card associations, or any such successor organizations. University has no responsibility for, and no relationship with, third party vendors accepting the FAMU RATTLER CARD for ATM, PIN-based debit FAMU RATTLER CARD transactions as a result of this Agreement.

**16. Compliance with Applicable Law and Regulations.** The parties hereto agree to comply with all federal, state and local law to the extent that it is applicable to the performance of this Agreement including all laws and regulations related to the providers of the financial services

offered by the Bank and all laws and regulations related to the protection and security of any personal information gathered by the Bank, such as the Gramm Leach Bliley Act. For purposes of this Agreement, University will be considered the "issuer" of the FAMU RATTLER CARD used as the University ID card, except to the extent the FAMU RATTLER CARD is used to perform electronic funds transfers to or from any FAMU RATTLER CARD Bank Account, in which case Bank will be considered the "issuer." Bank will not be responsible to University or any FAMU RATTLER CARD holder for any liability arising from University's "issuer" responsibilities. Bank will be considered the "issuer" of the FAMU RATTLER CARD as it pertains to electronic funds transfers to or from any FAMU RATTLER CARD Bank Account and to the performance of any other financial transactions involving a FAMU RATTLER CARD Bank Account. Bank will be responsible to the FAMU RATTLER CARD holder for any unauthorized or erroneous transaction involving the FAMU RATTLER CARD Bank Account to the extent provided for under federal Regulation E (12 C.F.R. 1005.1, et seq.), to the extent applicable. University will not be responsible to Bank or to any FAMU RATTLER CARD holder for any liability arising from Bank's issuer responsibilities or for losses to any FAMU RATTLER CARD Bank Account; provided however, that nothing herein will exonerate University from any unauthorized or erroneous transactions or losses involving a FAMU RATTLER CARD Bank Account caused by University. In connection with the direct deposit of guaranteed student loan disbursements and other student financial aid or other University disbursements into the FAMU RATTLER CARD Bank Accounts, if any, University will comply with all applicable laws and regulations.

**17. Marketing.** Bank and University shall fully cooperate and shall work in conjunction to promote the FAMU RATTLER CARD program through various marketing efforts. Both Bank and University shall approve the content, timing, and use of all promotional initiatives and marketing/advertising materials related to the services contemplated under this Agreement. In cooperation with Bank, University will promote services provided under this Agreement to Eligible University Community Members through various communication channels available to University. University will provide Bank with the opportunity to provide information about the Bank financial services associated with the FAMU RATTLER CARD program to University Cardholders and new incoming University students through various methods, which may include without limitation emails, acceptance and orientation packets, letters, flyers and inserts. University and Bank will mutually agree upon direct mail and email communication strategies, and University will send these communications on Bank's behalf. University agrees that such marketing materials will include both the Bank Marks and University Marks. University will provide Bank with the opportunity to include inserts funded by Bank in University mailings to University Cardholders and new incoming University students. All mailings shall be mutually agreed on and where appropriate approved by the applicable University department and Bank. In addition, University will communicate during orientation the University FAMU RATTLER CARD program and associated Bank financial services to all parents/guardians and students. The University FAMU RATTLER CARD program and associated Bank financial services will be communicated as the students are issued their identification card. As mutually agreed, Bank

will actively participate in student orientations at no additional cost to Bank including but not limited to the presence of Bank representatives and presentations at the orientations. University agrees to cooperate with Bank exclusively in the expansion of financial services available to current and future FAMU RATTLER CARD holders including but not limited to the above marketing efforts and “tabling” on campus.

**Marketing Budget.** Bank will provide the marketing services function for marketing and promotion of the FAMU RATTLER CARD program. Bank estimates that its annual marketing budget for the promotion of the FAMU RATTLER CARD Campus Card project will be approximately \$10,000.00 annually during the Term of this Agreement. This budget includes funding for initial and annual marketing materials including customized materials that will highlight the banking features of the new FAMU RATTLER CARD and the benefits of linking it to a FAMU RATTLER CARD Bank Account.

**18. Insurance.** Bank represents and warrants that at all times during the Term, Bank shall maintain commercial general liability insurance, including coverage for bodily and personal injury, property damage, and products liability, in accordance with Bank operating guidelines. Bank shall also obtain and keep in force workers’ compensation insurance to the extent required by law and furnish proof of such to University upon request. Bank represents that the financial strength, integrity and contractual obligations of Bank provide protection for its customers with respect to risk associated with the products and services to be provided by Bank. Bank further represents that it maintains a Professional Liability policy (also known as an Errors and Omissions policy), a Financial Institutions Bond (also known as a Fidelity Bond), and other policies with coverages and provisions considered within industry standards for similarly situated financial services companies. Bank has the right at any given time to self-insure any of the insurance coverage as long as it is a normal accepted practice for a financial services company of its financial strength.

University represents and warrants that at all times during the Term, University shall maintain through its self-insurance program comprehensive general liability insurance, including coverage for bodily and personal injury, property damage, and products liability, in accordance with its operating guidelines. During business hours following reasonable request, University shall allow Bank to review such documents as are available pursuant to Public Records Laws to verify the existence and funding supporting said self-insurance program.

**19. Liability.** Bank will exercise reasonable care in providing electronic funds transfer services and other services to FAMU RATTLER CARD holders as contemplated under this Agreement, subject to breakdowns, operational failures, unavoidable delays, or similar causes beyond the party’s reasonable control.

Bank does not control, and, except as provided in Federal Reserve Board Regulation E and state law to the extent applicable, is not responsible to University for any error, act, or omission with respect to ATMs or POS terminals not owned and operated by Bank.

Bank does not undertake to ensure that FAMU RATTLER CARD holders will at all times be able to successfully accomplish transactions with Bank by any electronic means, including but not limited to ATMs, POS terminals, the Internet, or other existing or future technology associated with FAMU RATTLER CARDS, FAMU RATTLER CARD holders' account numbers or personal identification, or otherwise (herein "Electronic Means"). Transactions cannot be processed during off-line periods. When the computer maintaining the on-line files is off-line or rendered inoperable at any time for maintenance or servicing, or due to mechanical failure, strike, lockout, riots, epidemics, war, acts of terror, governmental regulations or other cause beyond Bank's reasonable control, such that no on-line processing of transactions may be possible, no customer transactions will be processed by Electronic Means and Bank will have no liability as a result. Bank will, however, exercise reasonable care to promptly reinstate service.

IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT LOSS OR DAMAGE WHETHER OR NOT ANY CLAIM FOR SUCH DAMAGES IS BASED ON TORT OR CONTRACT OR EITHER PARTY KNEW OR SHOULD HAVE KNOWN THE LIKELIHOOD OF SUCH DAMAGES IN ANY CIRCUMSTANCES.

**20. Representations and Warranties; Board Approval.** Each party hereby represents and warrants to the other that the party has full right, power and authority to fully perform its obligations under this Agreement, and that it has full right, power and authority to execute and deliver this Agreement, and that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by all necessary corporate action required to be taken on the part of the party including, when necessary, approval thereof by the party's Board of Directors or Board of Regents, as applicable. Each party hereby further represents and warrants to the other that this Agreement constitutes a valid and binding obligation of the party enforceable in accordance with its terms except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights and except as courts of equity may limit certain remedies such as specific performance. Each party further represents and warrants to the other that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict with, or result in the violation of, any laws or regulations applicable to the party, or of the charter, articles of association or bylaws of a party, or any agreement or other instrument to which the party is subject or by which the party or any of its properties or assets are bound.

**21. Examinations and Audit.** Except to the extent applicable law prohibits such, all records maintained by University pertaining to Bank and its FAMU RATTLER CARD Bank Account

customers and relevant to the performance of this Agreement will be available for examination and audit by Bank and/or its regulators. In addition, University will provide Bank or its duly authorized representatives with reasonable access to University's records for the purpose of enabling Bank to confirm University's compliance with the terms of this Agreement. All such records may be audited by Bank or its designated representative(s) at any time during University's regular working hours upon reasonable notice. Except to the extent applicable law prohibits such, Bank will provide University or its duly authorized representatives with reasonable access to Bank's records for the purpose of enabling University to confirm Bank's compliance with the terms of this Agreement. All such records may be audited by the University or its designated representative(s) at any time during Bank's regular working hours upon reasonable notice. Each party may require persons obtaining access to its records under this Section 21, as a condition to obtaining access, to execute written confidentiality agreements setting forth the matters as addressed in Section 23.

**22. Exclusivity.** During the term of this Agreement, University will not cause or authorize any University identification card to be used as a device to perform electronic funds transfers to or from an account with a financial institution (including, without limitation, banks, savings banks, savings associations, and credit unions) or as a device for accessing a person's account with a financial institution other than Bank, except as otherwise agreed in writing by Bank. Nothing herein shall prevent FAMU RATTLER CARD holders from using FAMU RATTLER CARDS as stored value cards, declining balance cards or smart cards. In addition, during the Term of this Agreement, University will give Bank exclusive access to market financial services to Eligible University Community Members including the marketing efforts indicated in Section 17.

**23. Confidentiality.** University may be provided certain information concerning Bank and/or its affiliates or customers, or other information Bank deems proprietary (including, without limitation, customer account information, customer lists, business plans, data processing programs, and operating manuals), in connection with the transactions contemplated herein. Likewise, Bank may be provided certain information that University deems proprietary or confidential pursuant to the law or University policy. As a condition to being furnished such information by a party (herein the "Confidential Information"), the other party agrees as follows:

- a. Except for FAMU RATTLER CARD Bank Account application data and FAMU RATTLER CARD Bank Account transaction information, which shall automatically be deemed to be Confidential Information of Bank, all information deemed confidential or proprietary by a party shall be clearly labeled "Confidential Information" or otherwise identified as "Confidential Information" in writing contemporaneous with furnishing such Confidential Information to the other party.
- b. Each party will use the Confidential Information of the other party solely for the purposes expressly authorized in this Agreement or subsequently authorized by the other party in writing.

- c. Each party will keep the Confidential Information of the other party confidential and (except to the extent required by law or legal process) refrain from disclosing the Confidential Information of the other party to any other person or party or using the Confidential Information of the other party for any purpose not expressly authorized under this Agreement or subsequently authorized by the other party in writing. Each party will be fully responsible for the unauthorized use or disclosure of the Confidential Information of the other party by any of its officers, directors, employees or other persons under its control.
- d. In the event a party is requested or legally compelled (by subpoena, warrant, legal process or other civil or criminal law, rule or procedure) to produce, disclose, or provide the Confidential Information of the other party, the party will promptly notify the other party of that fact as soon as reasonably possible, except to the extent such notification is prohibited by law.
- e. The parties agree that, to the extent applicable under the provisions of the Bank Service Company Act, they may be subject to examination by the OCC for the services provided in connection with this Agreement. The parties shall comply with the applicable requirements of 12 C.F.R. Part 30, and any other applicable law or regulation, by implementing and/or maintaining appropriate measures designed to: (1) ensure the security and confidentiality of Bank's Confidential Information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in harm or inconvenience to any Bank customer. These confidentiality and security provisions shall survive the termination of this Agreement.
- f. Throughout the Term, Bank shall implement and maintain appropriate safeguards, in conformity with applicable federal law and regulations, for all customer information, if any, owned by the University and delivered to the Bank pursuant to this Agreement. The Bank shall promptly notify the University, in writing, of each instance of (i) unauthorized access to or use of that customer information that could result in substantial harm or inconvenience to a customer of the University or (ii) unauthorized disclosure, misuse, alteration or other compromise of that customer information.

In addition, Bank's customer lists, including names of Eligible University Community Members who are FAMU RATTLER CARD holders and who have FAMU RATTLER CARD Bank Accounts, are Bank's Confidential Information, for which Bank retains exclusive ownership and right during the Term. Therefore, although University is not precluded from using or disclosing the names of its students, faculty members, staff members or other Eligible University Community Members for any purpose it deems appropriate, University would be precluded from using a list comprised of FAMU RATTLER CARD holders who have obtained FAMU



RATTLER CARD Bank Accounts from Bank if such use was for a purpose prohibited by this Section 23; provided, however, that University will not be deemed to be in breach of this Agreement in the event it is legally required (by subpoena, warrant, legal process or other civil or criminal law, rule or procedure) to produce, disclose, or provide such a list, provided it has made reasonable efforts to give Bank the notice required under subsection d., if applicable.

Within fifteen (15) days of the expiration or earlier termination of this Agreement, the parties shall either return if requested or otherwise destroy Confidential Information including documents, data and other information provided to each other in connection with this Agreement. Notwithstanding any provision herein to the contrary, Bank shall be permitted and shall retain such University Confidential Information for so long as: (i) is required by law; or (ii) as may be consistent with its normal business practices not to exceed five years, unless otherwise required by law.

**24. Equipment.** University is responsible for providing at its cost any equipment and systems programming necessary to implement the new FAMU RATTLER CARD program. Bank is responsible for providing any additional needed data lines and installation at its cost.

**25. Termination.**

- a. This Agreement may be terminated by either party (the "Non-Defaulting Party") upon notice to the other party (the "Defaulting Party") upon the Defaulting Party's material breach of any provision of this Agreement and failure to cure the breach within 60 days after written notice describing the breach and the action necessary to cure the breach is given by the Non-Defaulting Party to the Defaulting Party. In the event the Defaulting Party is in good faith unable to cure such material breach within 60 days, it shall commence the cure in a commercially reasonable manner and notify the Non-Defaulting Party of the anticipated cure date which in no event shall be later than 120 days from the material breach.
- b. This Agreement may be terminated by either party without notice to the other party in the event a petition in bankruptcy (or similar law providing for the adjustment of debts, debt reorganization or liquidation of the party) is filed by the other party, a petition in bankruptcy (or similar law providing for the adjustment of debts, debt reorganization or liquidation of the party) is filed against the other party and is not dismissed within sixty (60) days, or a conservator or receiver is appointed for the other party or for all or a substantial portion of its assets.
- c. This Agreement may be terminated by either party at any time if: (i) the operation of the FAMU RATTLER CARD program has or threatens to have a material adverse financial impact on Bank or University due to a change in applicable law, regulation, rule or policy applicable to Bank or University or the use of one or more of the FAMU RATTLER

requests of any federal, state, or municipal governments or any department or agency thereof, civil or military, acts of God, fires, floods, strikes, lockouts, embargoes, acts or threats of terrorism, or wars. Upon the happening of any circumstances or causes aforesaid, non-performing party shall notify the other party without delay. Any relief granted shall be limited to an extension of delivery dates or times of performance.

**32. Relationship of Parties.** No agency, partnership or joint venture is created by this Agreement. The parties disclaim any intent to form such relationships.

**33. Entire Agreement.** Except as expressly provided herein, this Agreement constitutes the entire agreement with respect to the transactions contemplated herein and supersedes and is in full substitution for any and all prior agreements and understandings between the parties hereto relating to such transactions. Each party disclaims reliance on any prior oral or written representations or undertakings by the other party in entering into this Agreement unless such representations or undertakings are expressly set forth in this Agreement. Wherever the parties agree to discuss a matter, there will be no implied agreement to agree, nor will any other standard be applied in determining a party's performance that is not expressly set forth in the Agreement. However, University and Bank agree that the provisions of account agreements will govern the products and services to be provided by Bank pursuant to this Agreement.

**34. Information System General Security.**

- a. University and its employees shall comply with all Bank security policies, procedures, and standards, as it may promulgate from time to time, including, without limitation, those governing access to data, computer systems, and facilities and governing the removal of property from Bank's premises.
- b. With regard to any computer system owned, controlled, or used by University or any agent or subcontractor of University, which computer system is now or hereafter physically or logically connected to or able to access any computer system owned, controlled, or used by Bank or which is used to store any Bank's software or data, University shall comply with all Bank's security policies, procedures, and standards governing or related to the connection or access to Bank's computer systems as it may promulgate from time to time so long as University receives notice of such policies, procedures, and standards, and any relevant changes.
- c. In addition, University agrees: (i) not to alter any hardware or software security residing on any Bank's computer system and/or network; and (ii) not to allow unauthorized traffic to pass into Bank's networks. In addition to any other rights Bank may have under this Agreement, Bank may terminate an unauthorized access.

**35. Taxpayer Identification Number.** University shall provide Bank with a duly dated and executed certification of taxpayer identification number in the form attached as Exhibit C.

**37. Student Loan Representation and Warranty.** University and Bank represent and warrant to one another that the pricing and other terms and conditions for the services provided under the Agreement are unrelated to whether the University refers student loans to Bank and to the amount of any such referrals. The parties further represent and warrant that royalty or other payments made by Bank to the University in accordance with the terms described herein are wholly unrelated to student loan activities, volumes, referrals or amount of referrals.

**38. Title IV Representation and Warranty.** University and Bank represent and warrant that FAMU RATTLER CARD Bank Accounts are not being opened by University on behalf of any Eligible University Community Members, University is not establishing a process Eligible University Community Members follow to open FAMU RATTLER CARD Bank Accounts, and University is not in any way assisting Eligible University Community Members in opening FAMU RATTLER CARD Bank Accounts. Further, the FAMU RATTLER CARD program is not being established for the purpose of University's disbursement of Title IV funds and FAMU RATTLER CARD Cards are not issued by Bank for the specific purpose of receiving Title IV funds.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates designated below.

**Wells Fargo Bank, National Association**

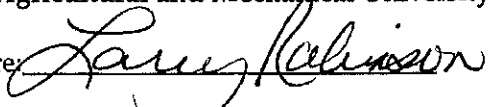
Signature: 

Name: Kelly A. Smith

Title: Region Bank President

Date: April 3, 2018

**Florida Agricultural and Mechanical University Board of Trustees**

Signature: 

Name: Larry Robinson, Ph.D

Title: President

Date: 3/30/18

 David C. Smith 03/23/18

**EXHIBIT B**  
**BANK MARKS**



(Black box with white letters)



(Red box with gold letters)

**EXHIBIT C**

**UNIVERSITY TAXPAYER IDENTIFICATION NUMBER**