

**SIXTH AMENDMENT TO
EL PASO COMMUNITY COLLEGE CAMPUS CARD AGREEMENT**

This Sixth Amendment to the El Paso Community College Campus Card Agreement is (herein "Amendment") is made and entered into effective as of September 9, 2016 ("Effective Date") by and between the El Paso Community College (herein "EPCC") and Wells Fargo Bank, National Association (herein "Bank").

WHEREAS, EPCC entered into the El Paso Community College Card Agreement dated June 3, 2005 (the "Agreement"); and

WHEREAS, EPCC and Bank entered into a Contract for Campus Card Agreement Addendum dated March 5, 2010 extending the term of the Agreement from June 2, 2010 through May 31, 2011; and

WHEREAS, the Agreement was extended by amendments between EPCC and Bank, which were dated May 6, 2011, May 24, 2012, May 7, 2013, and November 14, 2014.

WHEREAS, EPCC and Bank have agreed to amend the Agreement to further extend the Term of the Agreement.

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

1. **Definitions.** Capitalized terms used in this Amendment and defined in the Agreement shall be used herein as so defined, except as otherwise provided herein.

2. **Extension of Term.** In accordance with Section 1 of the Agreement, EPCC and Bank are extending the Term of the Agreement but have mutually agreed to extend the Term for five years instead of one year. Therefore, the Term if the Agreement is extended from June, 1, 2016 and shall terminate on May 31, 2021, unless otherwise terminated as provided in Section 26 (the "Term") or unless both parties elect to extend the Agreement with the procedures set forth in the Agreement.

3. Section 2 is hereby deleted in its entirety and replaced with the following:

2. EPCC Best Start Card Bank Account. During the Term, Bank will provide in accordance with this Section 2 a checking account linked to the EPCC Best Start Card for EPCC Best Start 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 \$50.00 by the EPCC Best Start Card holder. Nothing herein prohibits Bank from closing any EPCC Best Start Card Bank Account in accordance with standard deposit

account procedures. A "linked" checking account is defined as an EPCC Best Start Card Bank Account which has an EPCC Best Start Card linked to it within the Bank's system, for the purpose of ATM and PIN-based debit purchase functionality.

- a. Some EPCC Best Start Card holders may not be eligible for the EPCC Best Start 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 EPCC Best Start Card holder shall be considered to be an EPCC Best Start Card Bank Account.
- c. Enrolled students may choose the *Wells Fargo Everyday Checking* account, or other product offered by Bank, to which an EPCC Best Start Card may be linked. Faculty and staff may select any checking account or package for which they may be eligible to which an EPCC Best Start Card may be linked. *Wells Fargo Everyday Checking* accounts that are linked to EPCC Best Start Card will not incur a monthly service fee or minimum balance requirement.
- d. The EPCC Best Start 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 5 of this Agreement.
- e. The EPCC Best Start 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 an EPCC Best Start Card Bank Account.
- f. During the Term, should EPCC 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 EPCC students by direct deposit to student's EPCC Best Start 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 EPCC 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 EPCC website, dedicated to the EPCC Best Start Card and the EPCC Best Start Card holders, using a design and functionality subject to the approval of the EPCC, 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 EPCC to provide any required approval. The website shall provide information as mutually agreed by EPCC and Bank, which may include the following features:

- i Information about various account offerings for EPCC Best Start 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. EPCC 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 EPCC Best Start Card Bank Accounts that it makes generally to its non- EPCC Best Start Card Bank Accounts.

4. Exhibit A to the Agreement and any reference to the Exhibit A in the Agreement are hereby deleted their entirety.

5. Section 4 is hereby deleted in its entirety and replaced with the following:

4. Payments to EPCC. In consideration of the license and grant of rights from EPCC given to the Bank and more particularly described in the Agreement, Bank will make royalty payments to the EPCC as follows:

a. Renewal Bonus Payment.

Bank will pay a one-time renewal bonus of \$75,000 to EPCC within sixty (60) days of the commencement of this Agreement.

b. Account Royalty Payment.

Bank will pay EPCC for each eligible EPCC Best Start Card Bank Account linked to the EPCC Best Start Card for the purpose of ATM/PIN-based debit functionality and owned by an Eligible EPCC Community Member.

The number of EPCC Best Start Bank Accounts, for purposes of the Account Royalty computation, will be determined by Bank, based upon the number of eligible EPCC Best Start Card Bank Accounts which have a linked EPCC Best Start Card. Bank will use discrete product and customer identification and will only pay EPCC for one linked EPCC Best Start Card Bank Account per Eligible EPCC Community Member. To be considered for payment, the EPCC Best Start Bank Accounts must be in good standing, funded and owned by an Eligible EPCC Community Members at the time annual computation is computed. Bank will determine computation in conjunction with EPCC provided total enrollment of Eligible EPCC Community Members (e.g., enrolled students). The total number of Eligible EPCC Community Members will represent the total student enrollment number as of December of each year of the term.

The annual account royalty payment shall be based on the number of eligible EPCC Best Start Card Bank Accounts linked to EPCC Best Start Cards as a percentage of total student enrollments as of December 31st of each year of the term. Eligible checking accounts linked to an EPCC Best Start 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:

Weighted Campus Card	
<i>Percentage of Student Enrollment Linked to a EPCC Best Start Bank Account (% min required)</i>	<i>Annual Royalty Payment Based on Linked EPCC Best Start Bank Accounts</i>
00%-19.9%	\$20,000
20%-29.9%	\$25,000
30%-34.9%	\$30,000
35%-39.9%	\$35,000
40%-44.9%	\$40,000
45%-49.9%	\$45,000

50%-54.9%	\$50,000
55%-59.9%	\$55,000
60%-64.9%	\$60,000
65%-69.9%	\$65,000
70%-74.9%	\$70,000
75%-79.9%	\$75,000
80%-84.9%	\$80,000
85%-89.9%	\$85,000
90%-100%	\$90,000

Payments described in this Section 4 shall be deemed paid upon receipt by the EPCC at the address indicated herein for receipt of notices pursuant to Section 29.

Royalty Payment Timeframes. Payment information is expected as follows:

- The account royalty payment will be calculated annually in February to ensure accurate payment has been made to EPCC.
- Annual account royalty payments, based on number of linked EPCC Best Start Card Bank Accounts, will be calculated from the total enrollment of Eligible EPCC Community Members received from the EPCC the last week of December. The annual account royalty payment will be paid to EPCC in February.

Accordingly, the Agreement execution date is June, 1, 2016 so the first account royalty payment based on participation would be calculated in February 2017. The account royalty payment would be made by February 2017.

6. Section 18 of the Agreement is hereby deleted in its entirety and replaced as follows:

18. Marketing. Bank and EPCC shall fully cooperate and shall work in conjunction to promote the EPCC Best Start Card program through various marketing efforts. Both Bank and EPCC 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, EPCC will promote the optional services provided under this Agreement to Eligible EPCC Community Members through various communication channels available to EPCC. EPCC will provide Bank with the opportunity to provide information about the optional Bank financial services associated with the EPCC

Best Start Card program to EPCC Cardholders, including faculty, staff and students, and new incoming EPCC students through various methods, which may include without limitation emails, letters, flyers, inserts, and acceptance packets, and employee orientation packets, letters, flyers and inserts. EPCC and Bank will mutually agree upon direct mail and email communication strategies and distribution methods. EPCC agrees that such marketing materials will include both the Bank Marks and EPCC Marks. EPCC will provide Bank with the opportunity to include inserts (funded by Bank) about the optional Bank financial services associated with the EPCC Best Start Card program in EPCC mailings to EPCC Cardholders. All mailings shall be mutually agreed on and where appropriate approved by the applicable EPCC departments and Bank. The EPCC Best Start Card program option and associated optional Bank financial services may be communicated to students faculty and staff when they are issued their identification card. As mutually agreed, Bank will be the exclusive financial institution (including, without limitation, banks, savings banks, savings associations, and credit unions) at all new student orientation events on all EPCC campuses and any other off campus locations where such events may take place, which includes the presence of Bank representatives at the orientations . EPCC agrees to cooperate with Bank exclusively in the expansion of financial services available to current and future EPCC Best Start Card holders including but not limited to the above marketing efforts and "tabling" on campus. Notwithstanding the foregoing, the parties agree that GECU may offer credit or debit cards to Eligible EPCC Community Members within the confines of GECU's branch located at El Paso Community College's Valle Verde Campus or at college sponsored vendor fairs. College sponsored vendor fairs does not include any student related orientation events.

Marketing Budget. Bank will provide the marketing services function for marketing and promotion of the EPCC Best Start Card program. Bank estimates that its annual marketing budget for the promotion of the EPCC Best Start Card Campus Card project will be approximately \$10,000.00 the first year to launch the program and approximately \$10,000.00 annually thereafter 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 EPCC Best Start Card and the benefits of linking it to an EPCC Best Start Card Bank Account.

EPCC Best Start Card Costs. Bank will pay up to \$1.00 per card of the actual cost of the plastic card stock for each new EPCC Best Start Card issued to Eligible EPCC Community Members during the Term of the Agreement up to a total cost of \$15,000 for each year of the term.

Bank will not pay for replacement EPCC Best Start Cards issued to Eligible EPCC Community Members if they are lost or stolen. It is at the EPCC's discretion whether to charge Eligible EPCC Community Members for replacement EPCC Best Start Cards.

Bank will pay EPCC within sixty (60) days of receipt of detailed invoice, indicating number of cards issued by EPCC. Such invoice will be provided no less than quarterly.

7. Section 22 is hereby deleted in its entirety and replaced with the following:

22. Examinations and Audit. Except to the extent applicable law prohibits such, all records maintained by EPCC pertaining to Bank and its EPCC Best Start 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, EPCC will provide Bank or its duly authorized representatives with reasonable access to EPCC's records for the purpose of enabling Bank to confirm EPCC'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 EPCC's regular working hours upon reasonable notice. Except to the extent applicable law prohibits such, Bank will provide EPCC or its duly authorized representatives with reasonable access to Bank's records for the purpose of enabling EPCC to confirm Bank's compliance with the terms of this Agreement. All such records may be audited by the EPCC 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 22, as a condition to obtaining access, to execute written confidentiality agreements setting forth the matters as addressed in Section 24.

8. Section 26 is hereby deleted in its entirety and replaced with the following:

26. 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 EPCC Best Start Card program has or threatens to have a material adverse financial impact on Bank or EPCC due to a change in applicable law, regulation, rule or policy applicable to Bank or EPCC or the use of one or more of the EPCC Best Start Cards in a fraudulent manner or in a way which does not permit Bank or EPCC to recover funds from the user(s) of the EPCC Best Start Card (s); or (ii) Bank is notified by a regulatory agency, or otherwise becomes aware, that any aspect of the EPCC Best Start Card program does not comply with any applicable law, regulation, rule or policy applicable to Bank or EPCC.
- d. This Agreement may be terminated by EPCC upon sixty (60) days' prior written notice to Bank in the event: (i) EPCC receives excessive complaints from students regarding their EPCC Best Start Card Bank Accounts and Bank and EPCC are not able to reach an agreement as to how to resolve such complaints; or (ii) EPCC determines, based on its reasonable due diligence, that the fees imposed by Bank on EPCC Best Start Card Bank Accounts are, considered as a whole, clearly not consistent with or are above prevailing market rates for similarly-situated financial accounts, and such determination by EPCC is supported by data based on the relevant market, which shall be provided to Bank for review prior to termination.
- e. In the event EPCC terminates the Agreement prior to TERMINATION DATE for any reason other than those stated in subsections a, b, c, or d, or if Bank terminates pursuant to subsection a or b, of this Section 26, EPCC shall repay to Bank a percentage of the Initial Payment and Royalty Payment described in Section 4.a and 4.b of this Agreement. The percentage to be repaid by EPCC shall be calculated as follows:

Agreement Terminated:	Percentage of Renewal Payment and Royalty Payment to be
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	Repaid
During the first year of the Term	100%
During the second year of the Term	75%
During the third year of the Term	50%
During the fourth year of the Term	33%
During the last year of the Term	0%

9. Exhibit D is hereby deleted in its entirety and is replaced by inserting a new section 38 to the Agreement:

38. License to Establish Link to Bank Web Site. EPCC may choose to use the Bank "red box" logo on the EPCC Internet web site as a link to Bank's Internet web site at wellsfargo.com and has requested Bank's consent.

Bank hereby grants to EPCC a worldwide, non-exclusive right and license to establish a normal (href) text based link on www.epcc.edu from an agreed upon web page to be mutually determined to the www.wellsfargo.com home page for the purpose described in the immediately preceding paragraph; provided, however, that EPCC shall not "frame" the Bank web pages inside the EPCC web site. Bank also hereby grants to EPCC a non-exclusive right and license to use the WELLS FARGO "red box" logo ("the Logo") on the EPCC Internet web site located www.epcc.edu on an agreed upon web page to be mutually determined for the exclusive purpose of linking from www.epcc.edu to www.wellsfargo.com. EPCC agrees that nothing herein shall give to it any right, title or interest in the Logo (except the right to use the Logo in accordance with the terms of this Agreement), that the Logo is the sole property of Bank and that any and all uses by EPCC of the Logo shall inure to the benefit of Bank.

EPCC acknowledges that Bank may terminate the above right to link and the right to use the Logo if the content or structure of the EPCC web pages and/or web site changes unless within ten (10) calendar days after receiving written notice of termination from Bank, EPCC removes the materials to which Bank objects or revises the EPCC web pages and/or site to return to the original format or a format that is acceptable to Bank. If the above right to link and use the Logo is terminated, EPCC agrees to remove the link from the EPCC web page to the Bank web page and cease all use of the Logo within ten (10) calendar days of receiving

notice.

EPCC agrees that it will not use any Logo design except the camera-ready or downloadable Logo design provided to EPCC by Bank. EPCC agrees that all products and/or services offered by EPCC on its web site in the future shall be of a nature and quality commensurate with the nature and quality of its current products and/or services. Bank may monitor the EPCC use of the Logo on the EPCC web site. EPCC agrees that any EPCC web page featuring banking information must be accompanied by required banking disclosures, including, but not limited to "Wells Fargo Bank, N.A., Member FDIC." EPCC shall deliver all web pages that reference Bank and/or contain the Logo to Bank prior to publication for Bank's consent.

This license to use Logo shall be royalty-free. This license to use Logo and any and all rights granted hereunder are personal in nature to EPCC, are non-transferable by EPCC, do not convey any sublicensing rights to EPCC, and shall not inure to the benefit of any successor in interest of EPCC. This license to use Logo shall be binding upon and inure to the benefit of Bank's successors and assigns. All rights not specifically granted or licensed to EPCC are reserved to Bank.

10. The Agreement is amended by inserting a new section number 39 that reads as follows:

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

11. **Continued Effect.** Except to the extent amended hereby, all provisions and conditions of the Agreement shall continue in full force and effect and the Agreement shall remain enforceable and binding in accordance with its terms.

12. **Counterparts.** This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one and the same document, and each party hereto may execute this Amendment by signing any of such counterparts.

13. **Successors and Assigns.** This Amendment shall be binding upon, and shall inure to the

benefit of, the parties hereto and their respective successors and assigns.

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

Wells Fargo Bank, National Association

Signature: _____



Name: Lisa Riley

Title: Community Bank Regional President

Date: _____

El Paso Community College

Signature: _____



Name: Ruben C. Gallardo

Title: Director, Purchasing & Contract Management

Date: 14 September 2016

EXHIBIT A

EPCC MARKS



The approved colors for use with the logo are the EPCC Teal (Pantone 321) and EPCC Purple (Pantone 2597). The principle version of the logo must have the mountains and outer circle in teal, the sun and inner circle in white all with a black outline and "El Paso Community College" in black.

EXHIBIT B
BANK MARKS



(Black box with white letters)



(Red box with gold letters)

EXHIBIT C

EPCC TAXPAYER IDENTIFICATION NUMBER

1-741690850-1