

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Agreement"), made this ____ day of ____, 2024, is by and between the City of Allentown, a city of the third class of the Commonwealth of Pennsylvania (hereinafter "Lessor"), and Muhlenberg College, a Pennsylvania nonprofit corporation with an address at 2400 W. Chew St., Allentown, PA 18104 (hereinafter "Lessee").

WITNESSETH

WHEREAS, Lessor owns real property within the City of Allentown known as Earl Hunsicker, Bicentennial Stadium, located at Lehigh and Howard Streets, with an address of 1008 S. Howard St., Allentown, PA, identified as Lehigh County Parcel ID No. 640605111176-1, and described more fully on the attached **Exhibit A** (hereinafter "Stadium"); and

WHEREAS, Lessee wishes to lease the Stadium from Lessor and Lessor agrees to grant such lease subject to the provision contained in this Agreement; and

WHEREAS, if applicable, this Agreement is conditioned upon and subject to approval in accordance with Article 130.24 of the Administrative Code.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Lessor and Lessee hereby covenant and agree as follows.

1. The foregoing recitals are incorporated by reference herein.

2. Demised Premises: Lessor leases to Lessee and Lessee accepts from Lessor, the Stadium for the Term (as defined below) and subject to the provisions and conditions of this Agreement. The term "Stadium" shall include the terms demised premises, leased premises, premises and the Stadium as referenced in the Lease Agreement. The Stadium shall include the Stadium facility and property, land infrastructure, buildings and or other structures whether temporary or permanent, fixtures, stadium lot, including fences and gates and all other rights, interests, benefits, privileges, easements, tenements, improvements, hereditaments, and appurtenances thereon or in any way appertaining thereto.

3. Term: The term of the lease of the Stadium to Lessee shall commence on [January 1, 2024] and shall terminate on December 31, 2033, provided that the Lessee shall have the right to renew the term for one (1) ten (10) year renewal term followed by one (1) nine (9) year eleven (11) month renewal term. Lessee shall have the right to exercise each renewal term by providing not less than three (3) months prior written notice to Lessor and provided that Lessee is not in default at the time the renewal right is exercised.

4. Rents:

- a. The rent shall be fifteen thousand (\$15,000.00) dollars per year.
- b. The rent shall be payable in one annual payment of \$15,000.00 due the fifteenth (15th) day of each [January] for the entire term of the lease.
- c. In the event Lessee pays any rent, additional rent, charge, fee or amount after the aforesaid due date, Lessee shall also pay a late fee of five (5%) percent of the total amount

then due. Any such late fee shall be deemed to be additional rent. Interest shall accrue at an annual rate of six (6%) percent on any sums due after thirty (30) days. This provision shall not prevent Lessor from exercising any other remedy herein provided in the event of any default by the Lessee.

5. Structural and Capital Improvements:

- a. The Lessee shall design and construct, at Lessee's sole cost and expense, the Immediate Improvements described on the attached **Exhibit B** and, within five (5) years after the commencement date of the lease, the Future Improvements described on the attached **Exhibit C**, subject to an aggregate cap of \$4,000,000. Prior to the commencement of construction of the Immediate Improvements and the Future Improvements, Lessee must provide a timetable to the Lessor. Upon completion of each of the Immediate Improvements and the Future Improvements, Lessee must supply Lessor with documentation that the structural and/or capital improvement requirements have been met.
- b. Any and all additional permanent improvements or alterations to the Stadium shall require written authorization by the City's Director of Parks & Recreation, such authorization not to be unreasonably withheld, conditioned or delayed.
- c. The Immediate Improvements, the Future Improvements and any and all additional improvements and alterations must be in compliance with all Federal, State and Local laws, rules and regulations, including, but not limited to zoning and building codes. All such work must be performed after securing all applicable licenses and permits and may only be performed by licensed contractors. Contractors must maintain a valid Business License with the City of Allentown and are required to pay business privilege taxes as applicable.
- d. Lessee is solely responsible for obtaining all necessary approvals for the Immediate Improvements, the Future Improvements and any and all additional improvements.

6. Repair and Maintenance:

- a. Lessee shall be responsible for any and all routine maintenance of and clean-up of the Stadium, which shall include, but not be limited to turf and landscape bed maintenance, tree pruning and removal, clearing sidewalks of snow (in compliance with City Ordinance, or within 24-hours of the snowfall) and other debris, maintenance and repair of existing seats, plumbing and electrical maintenance and repairs, trash and litter, cleaning and supplying rest rooms, infield and grounds maintenance (mowing, dragging, lining, aerating, fertilizing, providing stone dirt or clay), public address system and score board repair.
- b. Lessee will keep all systems, services, facilities or appliances supplied by the Lessor in safe and working order.
- c. Lessee shall be responsible for seasonal needs of the plumbing system, clearing any blockages that occur in any drain line from the drain inlet up to and including the trap, and repairing or replacing plumbing fixtures; including but not limited to, toilets, urinals, sinks, faucets, showers, and pipes.
- d. An inspection of the facility shall be conducted annually by Lessor to assess its condition, to review any maintenance issues and possible permanent improvements or alterations.

- e. Lessee shall be responsible for routine maintenance and repair to any and all electrical units including but not limited to; panel boxes, junction boxes, wiring, fixtures such as stadium lighting and building lighting.

7. Taxes: Lessee shall be responsible for any real estate or other taxes levied against the Stadium during the term of this Agreement. Lessor will cooperate in any appeal by Lessee regarding real estate or other taxes assessed or charged against the Stadium. However, any such appeal shall be at Lessee's sole expense.

8. Utilities: Lessee shall be responsible for all Stadium utility costs, including gas, electric, water, sewer, trash, telephone and Internet.

9. Alcoholic Beverages: Lessee shall be authorized to sell alcoholic beverages at the Stadium subject to compliance with all applicable Federal State and Local laws and proof of insurance as set forth in Section 14 below:

10. Lessor's Reserved Rights:

- a. Notwithstanding Lessee's right to possess the Stadium pursuant to this Agreement, Lessee shall make the Stadium available to the Lessor at no charge for a maximum total of twenty (20) one-day events per calendar year (each a "City Event") between May 15th and February 1st. City Events shall be limited appropriate sport-related activities and can include A-YOUTH, Allentown School District and Allentown Department of Parks & Recreation featured games, events or programs as may be requested by the Lessor. Lessee reserves the right to reject any proposed City Event that is not an appropriate sports-related activity or that, in Lessee's reasonable discretion, could damage the Stadium property or the Stadium facilities or improvements. In addition to the twenty (20) one-day City Events referenced above, the Lessee will use its good faith efforts to schedule any requested additional City Events to the extent possible. The Lessor shall be responsible for all costs and expenses in connection with the City Events including, but not limited to, staffing, security, trash removal, etc. In the event that any Stadium facilities or improvements are damaged in connection with a City Event, the Lessor agrees to reimburse the Lessee for any costs incurred by the Lessee in connection with the repair or replacement of such damage to the Stadium facilities or improvements.
- b. By April 1st each year, the Lessor will provide Lessee a proposed schedule for the City Events to take place between May 15th and August 31st. By August 1st each year, the Lessor will provide Lessee a proposed schedule for the City Events to take place between September 1st and February 1st. The Lessor and Lessee will thereafter cooperate in good faith to coordinate the scheduling of such City Events.
- c. At least once a year, Lessee shall offer a free or low cost sport camp to Allentown youth.

11. Miscellaneous items:

- d. At the termination of the term of this Agreement, all improvements to the Stadium, including permanent fixtures, shall remain with said property and clear title thereto shall

rest in the Lessor with no obligation to reimburse Lessee for costs of such improvements or maintenance thereto.

- e. Lessee shall not discriminate against, refuse to hire or employ or contract with, or bar or discharge from employment any individual or independent contractor, or otherwise discriminate against any individual or independent contractor with respect to compensation, hire, tenure, terms, conditions or privileges of employment or contract, because of such individual's or independent contractor's race, color, religion, national origin, ancestry or place of birth, sex, gender identity, sexual orientation, disability, marital status, veterans status or lawful activity in any employee labor organization.
- f. Lessee shall comply with all State and Federal laws and regulations pertaining to performing mandated background checks for all persons interacting with minors. Lessee shall maintain copies of said background checks and make them available to the City's Director of Parks and Recreation or their designee upon request.

11. Compliance with Law: Lessee shall comply with any and all applicable Federal, State and Local, laws, rules, regulations and ordinances in conjunction with its use, maintenance, repair or improvement of the Stadium. Lessee shall take reasonable measures to ensure that any permitted assignee, sublessee, licensee, renter, or user of the Stadium (other than City Events and those uses scheduled by Lessor's Department of Parks & Recreation) likewise abides by and is in compliance with all applicable Federal, State and Local, laws rules, regulations and ordinances in conjunction with its use of the Stadium.

12. Events of Default: Each of the following shall be an "Event of Default" under this Agreement:
- a. If Lessee defaults and fails to cure any such default within thirty (30) days or such longer period of time as may be reasonably necessary, the Lessor can declare an Event of Default and retake possession of the Stadium including all Lessee paid-for improvements.
 - b. Lessee does not pay in full when due, any installment of rent, additional rent, or any other charge, expense, tax or cost agreed to be paid by Lessee excluding setoffs of Lessor expenses as set forth in this Addendum.
 - c. Lessee violates or fails to perform or comply with any non-monetary term, covenant, condition, or agreement and fails to cure such default, after proper notice, within the time prescribed in the Agreement.
 - d. Any assignment of the Agreement without the express written approval of Lessor, which shall be in Lessor's sole discretion, and such assignment shall be deemed null and void.
 - e. Lessee's filing of a voluntary petition in bankruptcy or being adjudicated as bankrupt or insolvent or in the case of an involuntary petition in bankruptcy.

13. Lessor's Remedies: In the event of an Event of Default, Lessor shall serve written notice to Lessee of said default.

- a. Upon the occurrence of any Event of Default, Lessor shall serve written notice to Lessee of said default. Lessee will have Fifteen (15) days to cure any monetary default and Thirty (30) days (or such longer period of time as may be reasonably necessary) to cure any non-monetary default. At the end of the applicable cure period, if the default remains uncured, Lessor may, at its option, with notice to Lessee, terminate the Agreement. In such instances, the estate hereby vested in Lessee shall cease and any and all other right,

title and interest of Lessee hereunder shall likewise cease without additional notice or lapse of time, as fully and with like effect as if the entire term of this Agreement had elapsed, but Lessee shall continue to be liable to Lessor as hereinafter provided.

- b. Upon the occurrence of any Event of Default that remains outstanding after the applicable notice and cure periods provided to Lessee, or at any time thereafter, Lessor, in addition to and without prejudice to any other rights and remedies Lessor shall have at law or in equity, shall have the right to re-enter the Stadium, either by force or otherwise, and recover possession thereof and dispossess any or all occupants of the Stadium in the manner prescribed by the statute relating to summary proceedings, or similar statutes, but Lessee in such cases shall remain liable to Lessor as hereinafter provided.
- c. In case of any Event of Default that remains after the applicable notice and cure period, re-entry, expiration and/or dispossession by summary proceedings, whether or not the Agreement shall have been terminated as aforesaid:
 - i. All delinquent rent, additional rent, all other sums required to be paid by Lessee hereunder shall become payable thereupon and be paid up to the time of such re-entry, expiration and/or dispossession;
 - ii. Lessor shall have the right, in its sole discretion, to terminate immediately and without any notice to the Lessee, all services which are to be supplied by Lessor pursuant to the terms of this Agreement, if any;
 - iii. Lessor shall have the right, but not the obligation, to relet the Stadium or any part or parts thereof for the account of Lessee, either in name of Lessor or otherwise, for a term or terms which may at Lessor's option, be less than or exceed the period which would otherwise have constituted the balance of the term of this Agreement and on such conditions (which may include concessions or free rent) as Lessor deems commercially reasonable. Lessor in its reasonable discretion, may determine and may collect and receive the rents therefore; Lessor shall in no way be responsible or liable for any failure to relet the Stadium or any part thereof, or for any failure to collect any rent due upon any such reletting; and
 - iv. Lessee shall reimburse Lessor for any reasonable expenses that Lessor may incur in connection with recovering possession of the Stadium and any reletting thereof, such as court costs, attorney's fees, brokerage fees and the costs of advertising and the costs of any alterations, repairs, replacements and/or decorations in or to the Stadium. Lessor's reletting of the Stadium, or the making of any alterations, repairs, replacements and/or decorations, shall not operate or be construed to release Lessee from liability hereunder as aforesaid.
- d. If this Lease is terminated by Lessor pursuant to this Section 13, Lessee nevertheless shall remain liable for all rent, additional rent and damages which may be due or sustained prior to such termination, together with additional damages (the "Liquidated Damages") in an amount equal to (A) the rent, additional rent, and all other sums required to be paid by Lessee hereunder during the period which would otherwise have constituted, the balance of the term of this Agreement, and all damages, costs, fees and expenses incurred by Lessor as a result of such Event of Default, including without limitation, reasonable attorneys' fees, costs and expenses incurred by Lessor in pursuit of its remedies hereunder or in pursuit of or relating to reletting the Stadium, less (B) the rent, if any,

received, by Lessor pursuant to any reletting of the Stadium during the period which would otherwise constitute the balance of the term of this Agreement; such amount calculated pursuant to this Section 13 shall be payable in monthly installments, in advance, on the first day of each calendar month following the occurrence of such Event of Default and continuing during the period which would otherwise have constituted the balance of the term of this Agreement.

- e. In the event Lessee commits a default, or suffers a default to exist beyond the cure period, Lessee shall reimburse Lessor within ten (10) days after written demand, for Lessor's reasonable attorney's fees incurred by Lessor in the enforcement of this Agreement regardless whether legal proceeding are or are not instituted, which fees shall include any actions taken in connection with any bankruptcy proceeding filed by or against Lessee.
- f. Any judgment obtained by the Lessor as a result of the exercise of its rights and remedies under this Agreement shall bear interest at the rate of six percent (6%) per annum from the date of entry of such judgment through the date such judgment is paid in full.

14. Insurance:

- a. Upon request from time-to-time, Lessee shall submit a certificate of insurance to the Lessor as evidence that it has obtained general liability and property damage fire insurance in an amount equal to One Million (\$1,000,000.00) dollars per occurrence, Two Million (\$2,000,000.00) dollars aggregate, naming the City of Allentown as an additional insured. If the Lessee is permitted by Lessor to rent, assign, license or sublet the Stadium to any third party, such third party shall have in place prior to the occupation or use of the Stadium, general liability and property damage fire insurance in an amount equal to One Million (\$1,000,000.00) dollars per occurrence, Two Million (\$2,000,000.00) dollars aggregate, naming the City of Allentown as an additional insured.
- b. Lessee shall submit proof of insurance to the Lessor for any sale of alcoholic beverages at the Stadium. Such alcohol liability insurance shall name the City of Allentown as an additional insured and be in the amount of Five Hundred Thousand (\$500,000.00) dollars for beer sales only and increased to One Million (\$1,000,000.00) dollars for the sale of liquor.
- c. Lessee shall ensure that any third party that it contracts to perform any work at the Stadium shall be required to have proof of workers' compensation insurance and shall indemnify and hold harmless Lessor and Lessee from personal injury and property damage incurred during the course of its work and provide a "builders all-risk" insurance policy in amount sufficient for the work being performed naming the Lessor and Lessee as additional insured.
- d. Lessee shall ensure that any third party entity that is permitted under this Agreement to use, rent, sublease or license the Stadium for baseball, softball or any other event, shall be required to have proof of workers' compensation insurance and shall indemnify and hold harmless Lessor and Lessee from personal injury and property damage incurred during the course of its use of the Stadium.
- e. Lessee shall exonerate, indemnify, hold harmless and defend the Lessor, including cost of defense and investigation of Lessor's attorneys and experts, from any and all liability, suits, claims, charges or otherwise, of any nature, including injury or death, to property

(including property of Lessee) or persons arising out of Lessee's use, permitted use by others, or maintenance of the Stadium or Lessee's failure to perform any obligations under this Agreement.

- f. Lessee shall provide a copy of all required certificates of insurance and all other insurance related documents to:

Risk Manager
City of Allentown
435 Hamilton Street
Allentown, PA 18101

15. Assignment and Mortgage: Lessee agrees that if a lien is filed against the Stadium in connection with any third party engaged by Lessee that performs work at, or supplies materials to, the Stadium, Lessee shall take the appropriate actions to have such lien removed at its sole expense.

16. Sublease: Lessee shall not assign this Lease or Sublet the Stadium or any portion of the Stadium or Premises without the express written approval of the Lessor, which shall be in the Lessor's sole discretion.

17. Right to Enter: Lessor or its representative shall have access to the Stadium at reasonable times for inspections, including compliance with the terms of this Agreement. The Department of Stadiums and Recreation must be provided with keys for the entire facility.

18. CONFESSION OF JUDGEMENT FOR DAMAGES. THIS PARAGRAPH SETS FORTH A WARRANT OF ATTORNEY FOR AN ATTORNEY TO CONFESS JUDGEMENT AGAINST THE LESSEE. IN GRANTING THIS WARRANT OF ATTORNEY TO CONFESS JUDGMENT AGAINST THE LESSEE, LESSEE HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, AND, ON THE ADVICE OF SEPARATE COUNSEL OF LESSEE, UNCONDITIONALLY WAIVES ANY AND ALL RIGHTS TENANT HAS OR MAY HAVE TO PRIOR NOTICE AND AN OPPORTUNITY FOR HEARING UNDER THE RESPECTIVE CONSTITUTIONS AND LAWS OF THE UNITED STATES AND THE COMMONWEALTH OF PENNSYLVANIA.

LESSEE HEREBY AUTHORIZES ANY ATTORNEY OF ANY COURT OF RECORD, UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT, TO APPEAR IMMEDIATELY THEREAFTER AS ATTORNEY FOR THE LESSEE AND ALL PERSONS CLAIMING UNDER THE LESSEE IN ANY COMPETENT COURT AND TO CONFESS JUDGMENT OR JUDGMENTS AND SUCCESSIVE JUDGMENTS BY CONFESSION (WITHOUT STAY OF EXECUTION OR APPEAL) IN FAVOR OF THE LESSOR AND ALL PERSONS CLAIMING UNDER THE LESSEE FOR ALL AMOUNTS THEN DUE UNDER THIS LEASE, TOGETHER WITH AN ATTORNEY'S COLLECTION COMMISSION EQUAL TO TEN PERCENT (10%) OF THE TOTAL OF SUCH AMOUNTS (BUT IN NO EVENT LESS THAN \$2,000.00), WITHOUT ANY LIABILITY ON THE PART OF THE SAID ATTORNEY, FOR WHICH THIS SHALL BE SUFFICIENT WARRANT AND THEREUPON A WRIT OF EXECUTION WITH CLAUSE FOR COSTS, OR OTHER PROCESS FOR SIMILAR PURPOSES MAY ISSUE FORTHWITH WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER, AND THE LESSEE AND ALL PERSONS CLAIMING UNDER THE LESSEE HEREBY WAIVE ALL EXEMPTION LAWS AND INQUISITION ON REAL PROPERTY AND RELEASE TO THE LESSOR AND ALL PERSONS CLAIMING UNDER THE LESSOR ALL ERRORS AND EFFECTS WHATSOEVER IN ENTERING SUCH ACTION OR

JUDGMENT, OR IN CAUSING SUCH WRIT OF EXECUTION OR OTHER PROCESS TO BE ISSUED, OR IN ANY PROCEEDING THEREON OR CONCERNING THE SAME, AND HEREBY AGREE THAT NO WRIT OF ERROR OR OBJECTION OR EXCEPTION SHALL BE MADE OR TAKEN THERETO. IF A COPY OF THIS LEASE, VERIFIED BY AFFIDAVIT, IS FILED IN SAID ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY, ANY LAW OR RULE OF COURT TO THE CONTRARY NOTWITHSTANDING THIS WARRANT OF ATTORNEY SHALL NOT BE EXHAUSTED BY ONE EXERCISE THEREOF, AND SHALL REMAIN IN FORCE AND SHALL BE OPERATIVE FOR SUCCESSIVE EXERCISES THEREOF, FROM TIME TO TIME AS THE NEED MAY ARISE, NOT ONLY WITH RESPECT TO THE LESSEE BUT ALSO WITH RESPECT TO ALL PERSONS CLAIMING UNDER THE LESSEE.

19. CONFESSION OF JUDGMENT IN EJECTMENT. THIS PARAGRAPH SETS FORTH A WARRANT OF ATTORNEY FOR AN ATTORNEY TO CONFESS JUDGMENT AGAINST THE LESSEE. IN GRANTING THIS WARRANT OF ATTORNEY TO CONFESS JUDGMENT AGAINST THE LESSEE, LESSEE HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY AND ON THE ADVICE OF SEPARATE COUNSEL OF LESSEE, UNCONDITIONALLY WAIVES ANY AND ALL RIGHTS LESSEE HAS OR MAY HAVE TO PRIOR NOTICE AND OPPORTUNITY FOR HEARING UNDER THE RESPECTIVE CONSTITUTIONS AND LAWS OF THE UNITED STATES AND THE COMMONWEALTH OF PENNSYLVANIA.

LESSEE HEREBY AUTHORIZES THE PROTHONOTARY, CLERK OF COURT OR ANY ATTORNEY OF ANY COURT OF RECORD, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, OR IN THE EVENT THAT LESSEE FAILS TO SURRENDER POSSESSION OF ALL OR ANY PART OF THE PREMISES AS REQUIRED HEREIN, TO APPEAR FOR THE LESSEE AND ALL PERSONS CLAIMING UNDER THE LESSEE IN ANY COMPETENT COURT AND CONFESS JUDGMENT IN EJECTMENT (WITHOUT STAY OF EXECUTION OR APPEAL) IN FAVOR OF THE LESSOR AND ALL PERSONS CLAIMING UNDER THE LESSOR AND AGAINST THE LESSEE AND ALL PERSONS CLAIMING UNDER THE LESSEE FOR POSSESSION OF THE PREMISES, WITHOUT ANY LIABILITY ON THE PART OF THE SAID ATTORNEY, FOR WHICH THIS SHALL BE A SUFFICIENT WARRANT, AND THEREUPON A WRIT OF POSSESSION WITH CLAUSE FOR COSTS, OR OTHER PROCESS FOR SIMILAR PURPOSES, MAY ISSUE FORTHWITH WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER, AND THE LESSEE AND ALL PERSONS CLAIMING UNDER THE LESSEE HEREBY RELEASE TO LESSOR AND ALL PERSONS CLAIMING UNDER THE LESSOR ALL ERRORS AND DEFECTS WHATSOEVER IN ENTERING SUCH ACTION OR JUDGMENT, OR IN CAUSING SUCH WRIT OF POSSESSION OR OTHER PROCESS TO BE ISSUED, OR IN ANY PROCEEDING THEREON OR CONCERNING THE SAME, AND HEREBY AGREE THAT NO WRIT OF ERROR OR OBJECTION OR EXCEPTION SHALL BE MADE OR TAKEN THERETO. IF A COPY OF THIS LEASE, VERIFIED BY AFFIDAVIT, IS FILED IN SAID ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY, ANY LAW OR RULE OF COURT TO THE CONTRARY NOTWITHSTANDING. THIS WARRANT OF ATTORNEY SHALL NOT BE EXHAUSTED BY ONE EXERCISE THEREOF, AND SHALL REMAIN IN FORCE AND SHALL BE OPERATIVE FOR SUCCESSIVE EXERCISES THEREOF, FROM TIME TO TIME AS THE NEED MAY ARISE, NOT ONLY WITH RESPECT TO THE LESSEE BUT ALSO WITH RESPECT TO ALL PERSONS CLAIMING UNDER THE LESSEE.

20. Remedies Cumulative: All remedies given to Lessor herein and all rights and remedies given to Lessor by law and equity shall be cumulative and concurrent. No termination of the Agreement, or taking or recovering of possession of the Stadium, or entry of any judgment either for possession or for any money claimed to be due Lessor, shall deprive Lessor of any other action against Lessee for

possession, or for any money due Lessor hereunder, or for damages hereunder. The exercise of or failure to exercise any remedy shall not bar or delay the exercise of any other remedy.

21. Lessee's Waivers:

- a. Any notice to quit required by law previous to proceedings to recover possession of the Stadium or any notice of demand for rent on the day when such is due and the benefit of all laws granting stay or execution, appeal, inquisition and exemption are hereby waived by Lessee; provided, however, that nothing in this paragraph shall be construed as a waiver of any notice specifically mentioned or required by any other part of this Agreement.
- b. In the event of a termination of the Agreement prior to the date of expiration herein originally fixed, Lessee hereby waives all right to recover or regain possession of the Stadium, to save forfeiture by payment of rent due or by other performance of the conditions, terms or provisions hereof, and without limitation of or by the foregoing, Lessee waives all rights to reinstate or redeem the Agreement notwithstanding any provisions of any statute, law or decision now or hereafter in force or effect and Lessee waives all rights to any second or further trial in summary proceedings, ejectment or in any other action provided by any statute or decision now or hereafter in force or effect. This paragraph shall not apply to personal property.

22. Accord and Satisfaction: No payment by Lessee or receipt by Lessor of a lesser amount than the rent, additional rent, late fee or interest shall be deemed to be other than on account of the earliest stipulated rent or other charges payable by Lessee under this Agreement, nor shall any endorsement or statement on any check or on any letter accompanying any check or payment as rent or other charges be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or other charge or pursue any other remedy as provided in this Agreement.

23. Notices: Lessee shall furnish a copy of all documents required by the Agreement, including but not limited to notices to Lessor in a timely manner by sending the same to:

Megan Rohrbach
Contracts Administrator
City of Allentown
435 Hamilton Street
Allentown, PA 18101

Notice required from Lessor to Lessee under the Agreement shall be sent to:

Curtis Topper
Chief Financial Officer
Muhlenberg College
2400 W Chew St.
Allentown , PA 18104

24. Successors: This Agreement shall extend to and bind the parties hereto and their respective heirs, executors, administrators, successors and assigns, provided, however, that any assignment by

Lessee of this Agreement or the rights provided by this Agreement without the express written approval of Lessor, which approval may be granted or withheld in the sole discretion of Lessor, shall be void and shall be an event of default of this Agreement and exempt from any curative period by Lessee.

25. Commercial Agreement: Lessee acknowledges and represents that this Agreement is commercial in nature, for Lessee's institutional purposes and is not a consumer transaction.

26. Integration: This Agreement, as defined above, contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings, whether written or oral, with respect thereto. This Agreement cannot be amended orally, but may only be amended by a written document duly executed by all parties. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together constitute one and the same document. Signatures exchanged by facsimile or e-mail shall have the same binding effect as original signatures.

27. Force Majeure. If either party is in any way delayed or prevented from performing any obligation due to fire, act of God, governmental act or failure to act, pandemic or health emergency, strike, labor dispute, inability to procure materials, or any other cause beyond such party's reasonable control (whether similar or dissimilar to the foregoing events), then the time for performance of such obligation shall be excused for the period of such delay or prevention and extended for a period equal to the period of such delay, interruption or prevention.

28. Fire or Casualty. If the Stadium is totally or partially damaged or destroyed by fire or other casualty thereby rendering the Stadium totally or partially inaccessible or unusable, then Lessor shall diligently repair and restore the Stadium to substantially the same condition it was in prior to such damage or destruction provided, however, that (i) if such damage or destruction was caused by the act or omission of Lessee, then Lessee shall pay Lessor's deductible and the amount by which such expenses exceed the insurance proceeds, if any, actually received by Lessee on account of such damage or destruction, and (ii) Lessor shall not be required to repair or restore any of the Lessee's fixtures, furnishings or equipment located in the Stadium. Until such repair and restoration of the Stadium are substantially complete, Lessee shall be required to pay rent only for the portion of the Stadium that is usable while such repairs and restoration are being made.

29. Condemnation. If the whole or a substantial part of the Stadium (including parking areas and access to the Stadium) shall be taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose under any statute or by right of eminent domain or private purchase in lieu thereof by any competent authority, or sold under threat of such a taking or condemnation (collectively, "Condemned"), then this Agreement shall terminate on the day prior to the date title thereto vests in such authority and all rent and additional rent shall be apportioned as of such date. If less than a substantial part of the Stadium is Condemned, then this Agreement shall continue in full force and effect as to the part of the Stadium not so Condemned, except that as of the date title vests in such authority, Lessee shall not be required to pay rent with respect to the part of the Stadium so Condemned. All awards, damages and other compensation paid on account of such condemnation shall belong to Lessor, and Lessee assigns to Lessor all rights to such awards, damages and compensation;

provided, however, that Lessee shall have the right to pursue any separate claim against the authority for leasehold improvements (including but not limited to the Immediate Improvements and Future Improvements), moving expenses, the value of any furnishings or equipment installed in the Stadium, goodwill and/or severance damages.

30. Recording. Lessee reserves the right to record a memorandum of this Agreement and Lessor agrees to execute a memorandum of this Agreement in the form submitted to Lessor by Lessee.

31. Signage and Naming Rights. Lessee shall have the right, at its sole cost and expense, to install and maintain signage at the Stadium to the maximum extent allowable by governmental requirements, as same may be modified by variance requested by Lessee. Lessor agrees upon request to appear with Lessee at any required governmental or quasi-governmental meetings required to obtain permits or variances for Lessee's signage at the Stadium. In addition, Lessee shall have the right to establish naming rights for various aspects of the Stadium and to sell advertising space/rights within the Stadium (and to retain any payments for same); provided that the Stadium remains called Earl F. Husicker Bicentennial Stadium [describe use of "Bicentennial Park" name].

32. Right of First Refusal. If Lessor receives from a third party a bona fide offer to purchase or acquire the Stadium, before Lessor may accept such an offer, Lessor must first give written notice to Lessee of the core economic terms of said offer. Lessee shall have thirty (30) days from the date of receipt of said notice to provide Lessor with written acceptance of such core economic terms of the offer. If Lessee accepts said offer, closing shall take place within sixty (60) days from the date of acceptance. If Lessee fails to accept said offer within the thirty (30) days provided herein, Lessor may proceed to sell the Stadium to said third party in accordance with the terms of the offer; provided, however, that if the core economic terms of the sale with the third party are modified in any way prior to the close of the sale (other than extensions of the closing date or other non-monetary modifications), or each time there is a new prospective buyer of the Stadium, Lessor shall give Lessee a new notice and opportunity to match the terms of the purchase the Stadium, as set forth above in this Section. In addition, if Lessor has not consummated a sale within one hundred eighty (180) days after the expiration of Lessee's option rights under this Section, the restrictions and options herein provided shall be restored and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Lease Agreement on the day and year first above written.

ATTEST:

CITY OF ALLENTOWN

Bina Patel, Director of Finance

By: _____
Matt Tuerk, Mayor

ATTEST:

MUHLENBERG COLLEGE

Name:

By: _____
Curtis Topper
CFO

**EXHIBIT A
THE STADIUM**

EXHIBIT B
IMMEDIATE COLLEGE IMPROVEMENTS

- Recondition infield
- Recondition outfield
- Demolish and recondition select sections of bleachers
- Install new bullpens and batting cages
- Expand outfield fencing and netting
- Refurbish dugouts and restrooms
- Such other improvements as Muhlenberg may determine

EXHIBIT C
FUTURE COLLEGE IMPROVEMENTS

- Install synthetic turf (infield and/or outfield)
- Renovate Locker rooms and offices
- Renovate exterior fencing, concessions, ticket booth/merchandising area, press box, parking, etc.
- Such other improvements as Muhlenberg may determine

361170