STATE OF NORTH CAROLINA)
)
COUNTY OF FORSYTH)

BOWMAN GRAY FIELD HOUSE and STADIUM LEASE and CONSTRUCTION AGREEMENT

THIS LEASE AGREEMENT (*"Lease"*), made and entered into this the 31st day of August, 2006, by and between, **THE CITY OF WINSTON-SALEM** ("City"), a North Carolina Municipal Corporation, and **THE STATE OF NORTH CAROLINA** ("State") and **WINSTON-SALEM STATE UNIVERSITY**, a constituent University of the University of North Carolina System ("WSSU");

W I T N E S S E T H:

WHEREAS, **Winston-Salem State University** ("WSSU"), has requested and approved the execution of this Lease for the purposes herein specified;

WHEREAS, the execution of this Lease for and on behalf of the State has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina on August 1, 2006;

WHEREAS, the City owns and manages, through its Public Assembly Facilities Commission, the Bowman Gray Stadium (hereinafter the "Stadium") and the Bowman Gray Field House (hereinafter the "Field House"), which is located on the Stadium Property, all of which is located in Winston-Salem, North Carolina;

WHEREAS, WSSU seeks to hold its Home Football Games, as well as other Events, at the Stadium and seeks to locate its Athletic Department Offices, athletic training facilities and locker rooms in the Field House. The City seeks to lease the Stadium and the Field House to WSSU for these purposes;

WIIEREAS, the City intends to construct a new Field House in the Stadium. In designing, constructing and financing the new Field House, the City has relied upon WSSU's promise to reimburse the City for a portion of the construction costs and to pay rent, as set out herein.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the City does hereby let and lease unto the State and the State hereby takes and leases from the City, the Stadium and Field House, more particularly described as follows:

> Being the Bowman Gray Stadium, Field House and adjoining parking area, located on Lot 2 of Forsyth County Tax Block 2416, as indicated on the attached **Exhibit A**, excluding that area designated as the concession stands, all as located in Winston-Salem, Forsyth County, North Carolina, being approximately 25 acres.

THE TERMS AND CONDITIONS OF THIS LEASE AGREEMENT ARE AS FOLLOWS:

1. **Definitions.** The following terms, as used herein, shall have the meanings below:

"Advanced Gross Ticket Sales" means the gross sum of all Event tickets sold by WSSU or the City prior to the day of an Event.

"City" means the City of Winston-Salem, North Carolina, a North Carolina Municipal Corporation, or any successor thereto.

"City Representative" means any of the following: (1) the City Manager or (2) any other person or persons at the time designated to act on behalf of the City for purposes of performing any act on behalf of the City under this Lease.

"Event of Default" means one or more events of default as defined in paragraph 13 herein.

"Equipment" means any and all apparatus, implement or substance provided at an Event such as, but not limited to, Public Address System, Scoreboard, Lights, Goal Posts, down markers, field lining, and entrance security devises.

"Event" means any and all events scheduled pursuant to paragraphs 5 and 6 herein, excluding a Practice and Meet the Rams Day, whereby WSSU requests the exclusive use and occupancy of the Stadium. Said Events may include, but are not limited to, WSSU Home Football Games.

"Field House" means the Bowman Gray Field House, to be built by the City pursuant to this Lease, and the adjoining parking area, as indicated in **Exhibit B**, attached hereto.

"Field House Rental" means the Field House Base Rental and the Field House Additional Rental, pursuant to paragraph 2 herein.

"Fiscal Year" means a twelve-month period commencing on the first day of July of any year and ending on the last day of June of the following year, or such other twelve-month period adopted as the Fiscal Year of WSSU.

"Food and Beverage Sales/Novelties" includes, but is not limited to, the sale of beverages, food, catering, premium services, tobacco products, non-event related souvenirs, programs, novelties, and merchandise, and the operation of checkrooms for clothing.

"Force Majeure" means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; tornadoes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmissions pipes or canals; or any other cause or event not within the control of WSSU or the City but not due to the City's or WSSU's respective negligence.

"Home Football Game" means any football game played by WSSU for which WSSU is designated as the home team, whether pre-season, regular season or post-season.

"Net Proceeds," when used with respect to any proceeds from policies of insurance, proceeds of any condemnation award arising out of the condemnation of all or any portion of the Field House or the proceeds from any sale of the Field House, means the amount remaining after deducting from the gross proceeds thereof all expenses (including, without limitation, attorneys' fees and costs) incurred in the collection of such proceeds; but any single recovery of such proceeds in an amount less than TEN THOUSAND DOLLARS AND NO CENTS ($10,000) will be retained by or paid to the City, as appropriate, and will not be treated as Net Proceeds under this Lease.

"Permitted Encumbrances" means, as of any particular time, (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid under the provisions of paragraphs 10 and 11 herein; (b) utility, access and other easements and rights of way, restrictions and exceptions which do not interfere with or impair the Field House or Stadium; and (c) such minor defects, irregularities,

encumbrances and clouds on title as normally exist with respect to property of the general character of the Field House and as do not materially impair title to the Field House or Stadium.

"Practice" means any use of the Stadium playing field by any WSSU athletic team or organization.

"Public Assembly Facilities Commission" means the Commission appointed by the City Council to manage and over see the operations of Bowman Gray Stadium and Field House, including the ability to set rates and fees to charged in addition to rental fees as set forth in this agreement.

"Stadium" means the Bowman Gray Stadium and adjoining parking area located on Lot 2 of Forsyth County Tax Block 2416, as indicated on the attached **Exhibit A**, excluding the Field House and that area designated as the concession stands, all as located in Winston-Salem, Forsyth County, North Carolina, being approximately 25 acres.

"Stadium Rental" means the Stadium Base Rental and the Stadium Additional Rental, pursuant to paragraph 2 herein.

"State" means the State of North Carolina.

"Student Debt Service Fees" means fees paid by all full-time and, on a prorated basis, part-time WSSU students that are dedicated to payment of construction projects, facility improvements or purposes related to acquisition of property.

"Total Gross Ticket Sales" means the gross sum of all Event tickets sold, either in advance or on the day of an Event.

"Vending Receipts" means receipts realized by WSSU from vending contracts and facilities including, but not limited to a snack bar, cafeteria, restaurant, café, concession stand, vending stand, cart service, or other facilities at which food, drinks, novelties, newspapers, periodicals, confections, souvenirs, tobacco products or other related items are regularly sold.

"WSSU" means the State of North Carolina acting by and through Winston-Salem State University, or any successor thereto.

2. Representations, Covenants and Warranties of WSSU. WSSU represents, covenants and warrants for the benefit of the City as follows:

a. WSSU is a constituent institution of the University of North Carolina, validly organized and existing under the laws of the State, has the power to enter into this Lease, and has duly authorized and taken the necessary acts required prior to (including all required approvals) the execution and delivery of this Lease. WSSU warrants this Lease to be a valid, legal and binding obligation of and enforceable, in accordance with its terms, against WSSU.

b. WSSU will not consolidate with or merge into another governmental entity or permit one or more other governmental entities to consolidate with or merge into it unless the governmental entity created thereby will assume WSSU's obligations hereunder.

c. At meetings of the Board of Trustees or its Executive Committee that were duly called and at which a quorum was present and acting throughout, WSSU duly approved the execution and delivery

by WSSU of this Lease, and to take all such actions as may be necessary to carry out the intent of this Lease;

d. Neither the execution and delivery of this Lease or the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions thereof conflicts with or results in a breach of the terms, conditions, or provisions of any restriction or any agreement or instrument to which WSSU is now a party or by which WSSU is bound or constitutes a default under any of the foregoing, nor conflicts with or results in a violation of any provision of law governing WSSU and no representation, covenant and warranty herein is false, misleading or erroneous in any material respect.

e. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, known to be pending or threatened against or affecting WSSU nor to the best of the knowledge of WSSU is there any basis therefor, wherein an unfavorable decision ruling, or finding would materially and adversely affect the transactions contemplated by WSSU or which would adversely affect, in any way, the validity or enforceability of this Lease or any material agreement or instrument to which WSSU is a party, used or contemplated for use in the consummation of the transactions contemplated hereby.

3. **Representations, Covenants and Warranties of City.** The City represents, covenants and warrants for the benefit of WSSU as follows:

a. The City is a municipal corporation duly created and existing under the laws of the State, has all necessary power to enter into this Lease, is possessed of full power to own and hold real and personal property and to lease the same as City, and has duly authorized the execution and delivery of this Lease. This Lease is enforceable, in accordance with its terms, against the City.

b. Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing.

c. To the knowledge of the City after exercising reasonable diligence to make such determination, there is no litigation or proceeding pending or threatened against the City or any other person affecting the right of the City to execute or deliver this Lease or to comply with its obligations under this Lease. Neither the execution and delivery of this Lease by the City, nor compliance by the City with its obligations under this Lease, require the approval of any regulatory body, any parent company, or any other entity, which approval has not been obtained.

4. **Term.** The term of this Lease Agreement shall commence on September 1, 2006 (such date being known as the *"Commencement Date"*), and shall terminate 30 years and 9 months from the Commencement Date (the *"Term"*), unless otherwise renewed or extended in writing properly executed and authorized by the parties hereto. Legal occupancy of the Field House shall be determined by the issuance of a Certificate of Occupancy issued by the City's Building Inspections Department. The City shall have three years from the date that this Lease is executed in which to construct the Field House so that WSSU is able to legally occupy the Field House. Should WSSU not be able to legally occupy the Field House within three years of executing this Lease, such delay not having been caused by WSSU, WSSU may terminate this Lease.

5. **Rental.** As of the Commencement Date of the Term, WSSU shall be obligated to pay to the City, as rental for the Stadium and for the Field House, the following amounts:

a. Field House Rentals:

i. Field House Base Rental. Once WSSU legally occupies the Field House, WSSU shall pay n amount not to exceed THREE MILLION AND THREE HUNDRED THOUSAND DOLLARS ($3,300,000.00) (the "Construction Debt") to partially reimburse the City for constructing the Field House, which sum shall be paid in semi-annual installments (the "Installment Payments") for 25 years (the "Repayment Term") as set out in the Payment Schedule, attached hereto and incorporated herein by reference as **Exhibit C**. WSSU shall present the Installment Payments to the Chief Financial Officer on the due date indicated for each Installment Payment in the Payment Schedule. Should WSSU make an Installment Payment more than 5 days after its due date, interest at the rate of ONE AND ONE-HALF PERCENT (1.5%) per month shall accrue daily on the total unpaid Construction Debt balance as of the due date of the past due Installment Payment until the Installment Payment is received (the "Late Payment Penalty"). When payment for a past due Installment Payment is received by the Chief Financial Officer, the payment shall be applied first to the past due Installment Payment and then to the Late Payment Penalty. Should the amount paid not be sufficient to pay both the past due Installment Payment and the Late Payment Penalty, the Late Payment Penalty shall continue to accrue interest daily at the rate of 1½% per month, or at the maximum rate as allowed by law, whichever is less, from the date that the past due Installment Payment is received until the Late Payment Penalty is paid in full. Until the Late Payment Penalty is paid in full, subsequent Installment Payments shall be first applied to the Installment Payment due as indicated in the Payment Schedule. Any additional Late Payment Penalties shall be added together and interest shall accrue daily at the rate of 1½% per month, or at the maximum rate as allowed by law, whichever is less, until the total Late Payment Penalty is paid in full.

ii. Field House Additional Rentals. In addition to the Field House Base Rental set out in paragraph i. above, WSSU shall pay the following Field House Additional Rentals:

1. Operation, Maintenance and Custodial Services. An annual amount sufficient to reimburse the City for WSSU's pro rata share of the operational costs, including all utilities, and of the costs to repair, maintain and to provide custodial services for the Field House, as well as to repair, maintain and operate the elevator installed in the Field House. At least two weeks prior to WSSU being able to legally occupy the Field House, and on June 1st of each year thereafter, the City shall project and present to WSSU the total projected annual costs to operate, maintain, repair and to provide custodial services for the Field House from July 1st of the current year through June 30th of the following year, including the costs of all utilities and the costs to maintain, operate and repair the elevator to be installed in the Field House. On December 31st, 2007, on March 31st, 2008, on June 30th, 2008, on September 30th, 2008 and on each anniversary of these subsequent respective dates, the City shall present to WSSU an invoice for Ninety-One and ½ Percent (91.5%) of the actual costs for operation, maintenance and custodial services of the Field House and One Hundred Percent (100%) of the actual cost to maintain, operate and repair the elevator. Within 30 days of these respective dates, WSSU shall pay in full to the Chief Financial Officer the invoiced amounts. Costs projected and billed pursuant to this section include those normally associated with ensuring that the Field House may be safely occupied and shall be reasonably comfortable on a daily basis and those Capital Costs, as defined in subparagraph 2.a.ii.2. below, for which the City shall incur a cost of less than $50,000 in a 12 month period.

2. Capital Costs Reserve Payment. On July 1st, 2008, assuming that WSSU legally occupies the Field House by this date, and on July 1st of each year thereafter, WSSU shall pay to the City's Chief Financial Officer TEN THOUSAND SEVEN HUNDRED AND TWENTY DOLLARS ($10,720.00) that shall be held in reserve by the City to be used to repair or to make capital improvements

to the Field House. After the initial payment, this payment shall be increased each year for the Term of this Lease by an amount determined by multiplying the not to exceed amount above by the percent of increase, if any, in the index now known as "United States Bureau of Labor Statistics, Consumer Price Index, for All Urban Consumers, All Items for all cities (1982-84 = 100)," (the "CPI") for the prior fiscal year. The percent of increase shall be the total increase for the prior fiscal year using an CPI based on data for the preceding 12 months. If the CPI is discontinued, the City will choose another index of consumer prices which is most nearly like the CPI, subject to the approval of WSSU, which approval will not be unreasonably withheld. In no event shall the percent of increase be less than THREE PERCENT (3%), regardless of the change in the CPI as calculated above.

On July 1st, 2008, and on July 1st of each year thereafter, the City shall contribute to the Capital Cost Reserve FIVE THOUSAND, TWO HUNDRED AND EIGHTY DOLLARS AND NO CENTS ($5,280.00). After the initial payment, this payment shall be increased each year for the Term of this Lease by an amount determined by multiplying the not to exceed amount above by the percent of increase, if any, in the index now known as "United States Bureau of Labor Statistics, Consumer Price Index, for All Urban Consumers, All Items for all cities (1982-84 = 100)," (the "CPI") for the prior fiscal year. The percent of increase shall be the total increase for the prior fiscal year using an CPI based on data for the preceding 12 months. If the CPI is discontinued, the City will choose another index of consumer prices which is most nearly like the CPI, subject to the approval of WSSU, which approval will not be unreasonably withheld. In no event shall the percent of increase be less than THREE PERCENT (3%), regardless of the change in the CPI as calculated above.

Should WSSU be more than 30 days late in making the Capital Cost Reserve Payment, the past due Capital Cost Reserve Payment shall accrue interest daily at the rate of ONE AND ONE-HALF PERCENT (1.5%) per month, or at the maximum rate as allowed by law, whichever is less, from the date originally due until paid in full.

The Capital Costs Reserve shall be held by the City and shall be used for those capital improvements that add to the value of the Field House, appreciably lengthen the useable life of the Field House, or allow the Field House to be adapted to a different use, upon the agreement of WSSU or upon the event that this Lease is no longer in effect and WSSU no longer occupies the Field House. These Capital Costs are generally major expenditures, such as, but not limited to, new electric wiring, a new roof, a new floor, new plumbing and new HVAC systems. Capital improvements for which the City shall incur a cost of $50,000 or more within a 12 month period shall be allocated from the Capital Costs Reserve. Capital improvements for which the City shall incur a cost of less than $50,000 within a 12 month period shall be included in and paid as part of the total annual Operational, Maintenance and Custodial Services cost pursuant to subparagraph 2.a.ii.1., above.

3. All Risk Insurance. WSSU shall pay the City an annual amount equal to SEVENTY-SEVEN PERCENT (77%) of the cost of the insurance premium described herein, which the City shall combine with its own funds, to purchase an All Risk Insurance Policy on the Field House, or any replacements or substitutions therefore, against loss or damage by fire and against loss or damage by other risks associated with operating similar structures or other risks contemplated by the City, said insurance being sufficient to provide coverage in an amount not less than one hundred percent (100%) of the estimated replacement cost of the Field House, or any replacements or substitutions therefore, and which insurance shall have a replacement cost endorsement or similar provision. The City shall not purchase insurance to provide coverage for WSSU's contents, including, but not limited to furniture, equipment, appliances, informational and communications systems and other personal property installed or brought into the Field House by WSSU. Provided that WSSU may legally occupy the Field House, at least two weeks prior to WSSU legally occupying the Field House, and on June 1st of each year thereafter, the City shall present to WSSU the All Risk Insurance premium to provide insurance through June 30th of

the following year. On July 1st, 2007, and on July 1st each year thereafter, WSSU shall pay, in full, to the City's Chief Financial Officer Seventy-Seven Percent (77%) of the All Risk Insurance Policy premium.

4. General Liability Insurance. WSSU shall reimburse the City the full price of a commercial General Liability Insurance Policy to protect and indemnify the City from and against any and all claims for damages to person or property or for loss of life or property {including insurance related to serving alcoholic beverages} occurring upon, in or about the Field House, including coverage relating to the employment of persons, independent Contractors hired by WSSU, contractual liability protection, and products and completed operations coverage such insurance to afford immediate protection to the limit of not less than One Million Dollars ($1,000,000) for bodily injury or property damage for any single occurrence. The policy described herein shall exclude coverage for those days when the City has exclusive occupancy of the Field House. Provided that WSSU may legally occupy the Field House, at least two weeks prior to WSSU legally occupying the Field House, and on June 1st of each year thereafter, the City shall present to WSSU the General Liability Insurance premium to provide insurance through June 30th of the following year. On July 1st, 2007, and on July 1st each year thereafter, WSSU shall pay, in full, to the City's Chief Financial Officer the General Liability Insurance premium.

b. Stadium Rentals:

i. Stadium Base Rental. WSSU shall pay a minimum Stadium Base Rental of THREE THOUSAND AND FIVE HUNDRED DOLLARS AND NO CENTS ($3,500.00) for each Event or FIFTEEN PERCENT (15%) of Total Gross Ticket Sales, whichever is greater, unless otherwise agreed to in writing between WSSU and the City. The minimum Stadium Base Rental of $3,500 shall be increased at the end of each WSSU Football Season by an amount determined by multiplying the minimum Base Rental of $3,500 by the percent of increase, if any, in the index now known as "United States Bureau of Labor Statistics, Consumer Price Index, for All Urban Consumers, All Items for all cities (1982-84 = 100)," (the "CPI") for the City's preceding fiscal year. If the CPI is discontinued, the City will choose another index of consumer prices which is most nearly like the CPI, subject to the approval of the State, which approval will not be unreasonably withheld. In no event shall the percent of increase be less than THREE PERCENT (3%), regardless of the change in the CPI as calculated above.

ii. Stadium Additional Rentals. In addition to the Stadium Base Rental set out in paragraph i. above, WSSU shall pay the following Stadium Additional Rentals:

1. Practice Fee. WSSU shall pay a Practice Fee of at least ONE HUNDRED DOLLARS ($100.00) for each two hour Practice period without the Stadium field lights and at least ONE HUNDRED AND FIFTY DOLLARS ($150.00) for each two hour Practice period with the Stadium lights turned on. The Practice Fee is exclusive of Staffing and any other Stadium Additional Rentals, as defined below, that the City deems necessary. These Practice Fees may or may not be increased at the end of each WSSU Football Season, as determined by the Public Assembly Facilities Commission, or its successor in managing the Stadium. WSSU shall pay the Practice Fee within TEN (10) business days of receipt of the City's billing statement.

2. Staffing. WSSU shall pay the City's total Staffing costs per Event. Arrangements for all Staffing, including but not limited to, stage hands, ticket sellers, ticket takers, gatemen, ushers, door guards, porters, parking attendants and security personnel shall be made by the City and levels for such Staffing shall be within the sole discretion of the City. Staffing shall not include staffing directly related to Food and Beverage Sales. All charges for such Staffing shall be based upon the Staffing rates, current as of the date of the Event as published by the Public Assembly Facilities

Commission, or its successor in managing the Stadium. When requested, the City will provide WSSU a written estimate of known and anticipated Staffing charges.

3. Equipment. Equipment shall be provided by the City upon WSSU's request or if the City determines that the Equipment is necessary to protect the Stadium or to provide for the safety and welfare of persons coming into or about the Stadium. In either event, WSSU shall pay the City for the use of the Equipment, based upon the Equipment rates, current as of the date of the Event as published by the Public Assembly Facilities Commission, or its successor in managing the Stadium. To protect the Stadium and those persons who may come in or about the Stadium, the City retains the right to determine, within reason and after consultation with WSSU, what Equipment WSSU may bring into the Stadium.

4. General Liability Insurance Premium. WSSU shall reimburse the City the full price of a commercial General Liability Insurance Policy to protect and indemnify the City from and against any and all claims for damages to person or property or for loss of life or property {including insurance related to serving alcoholic beverages} occurring upon, in or about the Stadium when being occupied by WSSU pursuant to the terms herein, including coverage relating to the employment of persons, independent Contractors hired by WSSU, contractual liability protection, and products and completed operations coverage such insurance to afford immediate protection to the limit of not less than One Million Dollars ($1,000,000) for bodily injury or property damage for any single occurrence, as further set out in this Lease. WSSU shall reimburse the City for this policy within 10 business days of the City presenting WSSU with an invoice. WSSU shall not be allowed to schedule an Event in the Stadium until the City has been reimbursed for this policy.

5. Box Office management Fee. WSSU shall pay a Box Office Management Fee to the City for each Event at which the City sells tickets on behalf of WSSU, pursuant to paragraph 6 below. WSSU shall pay the Box Office Management Fee current as of the date of the Event as published by the Public Assembly Facilities Commission, or its successor in managing the Stadium.

6. Ticket Service Fee. The City reserves the right to charge WSSU a fee for the sale of tickets on WSSU's behalf in an amount to be determined each year by the Public Assembly Facilities Commission, or its successor in managing the Stadium. The Ticket Service Fee shall not be less than 0.32 cents per ticket issued and 3.25% for each credit card purchase. All complimentary tickets shall be subject to a Ticket Service Fee.

iii. Stadium Rentals Payment Schedule.

1. Within 10 business days following an Event, the following shall occur:

a. WSSU shall present to the City proof of all Advanced Tickets sold by WSSU for the Event;

b. The City shall present to WSSU proof of tickets sales on the day of an Event; and

c. The City shall present to WSSU an itemized statement of all Stadium Additional Rentals.

2. Within 15 business days following an Event, the City shall deduct the Stadium Rentals due, base and additional rentals, from proceeds of the Total Gross Ticket Sales held by the City. Should the Total Gross Ticket Sales held by the City not be enough to reimburse the City for the

Stadium Rentals due, WSSU shall pay the balance of the Stadium Rentals due within 15 days following an Event.

3. Other than Home Football Games, should WSSU not agree to the amount of the Stadium Additional Rentals prior to an Event taking place, WSSU may choose not to hold an Event at the Stadium. WSSU's decision not to hold an Event at the Stadium, for any reason whatsoever, shall not relieve WSSU of its obligations herein.

c. This Lease is a *"net lease."* WSSU shall pay the net Rentals set out herein, free of any deductions, and without abatement, deduction or setoff.

6. Schedule.

a. Regarding scheduling Events at the Stadium, the following shall apply:

i. Home Football Games, Practices and Meet the Rams Day. WSSU shall have first priority to schedule in the Stadium its Home Football Games, Practices and Meet the Rams Day from September 1 through March 1 of each year. Prior to May 1 of each year, WSSU shall present to the City a proposed schedule of Home Football Games, practices and Meet the Rams Day, which schedule the City shall honor. The City reserves the right to use and to occupy the Stadium on a date that has not been reserved by WSSU pursuant to this sub-section.

ii. Other Events. The City and WSSU shall mutually agree as to the date, time and duration of Events to be held by the WSSU at the Stadium, other than those set out in paragraph a. above.

iii. In consideration of financing the construction of the Field House and allowing WSSU priority to schedule Events from September 1 through March 1 throughout the term of this Lease, WSSU shall play all of its Home Football Games at the Stadium during the Term of this Lease.

iv. Ticket Sales

1. City shall at all times maintain control and direction of all Tickets Sales, ticket offices, ticket personnel and Ticket Sales revenue. On a year to year basis, City and WSSU shall work out an arrangement whereby WSSU may sell tickets from its box offices on campus and through alumni groups. The Ticket Service Fee shall apply to tickets sold by WSSU.

2. WSSU must designate a seating arrangement to include pricing by June 1 of each agreement year to insure that correct tickets are made available for distribution by City. All tickets must be sold through a ticket distribution system approved by the City.

3. City shall not advance WSSU any funds from projected Total Gross Ticket Sales.

4. City reserves the right to such promotional seats in stadium as may be required by City and mutually agreed upon.

5. WSSU shall be responsible for assigning and distributing Press tickets and credentials for all Events held by WSSU at the Stadium.

6. City is to retain ticket stub drop for each of WSSU's Events. City is responsible to insure that ticket stub drop is handled by City's ticket takers in accordance with policies and procedures of the City.

b. Regarding the exclusive use and occupancy of the Field House, the following shall apply:

i. Annually, Prior to February 1, the City shall present to WSSU a schedule of dates that the City intends to exclusively occupy the Field House for racing events at the Stadium from March 1st through August 31st of each year. For those dates submitted prior to February 1 of each year, the City shall have priority to exclusively occupy the Field House. From March through August of each year, the events requiring exclusive occupancy by the City shall not exceed thirty (30) days. For exclusive occupancy of the Field House requested in excess of 30 days or requested after February 1 of each year and for shared usage of the Field House, the parties agree to work together in good faith to make a reasonable accommodation for their respective scheduling needs.

ii. From March 1st through August 31st of each year, the City shall have the exclusive use of the Training Room attached to the Visitor's Locker Room, as indicated in the attached **Exhibit D.**

iii. Pursuant to the terms herein, WSSU may schedule events at the Field House for organizations or other entities unrelated to WSSU. In addition, WSSU may charge such organizations or entities for any fees, costs or expenses for the use of the Field House, such fees, costs or expenses being paid directly to WSSU for such use. Should WSSU or some other organization using the Field House intend to serve alcoholic beverages at the Field House, WSSU or the organization must use the caterer or concessionaire designated by the City to serve the alcoholic beverages. Service of alcoholic beverages by someone other than the caterer designated by the City shall be a material breach of this Lease.

7. **Control and Modifications to the Stadium and the Field House.**

a. Regarding the Field House, WSSU's responsibility to control and ability to modify or alter the Field House is limited as follows:

i. WSSU has the privilege of remodeling the Field House or making substitutions, additions, modifications and improvements to the Field House, at its own cost and expense (however, title to the same shall be held in the name of the City, subject to this Lease, and shall be included under the terms of this Lease); provided, however, that such remodeling, substitutions, additions, modifications and improvements shall not in any way damage the Field House or cause the Field House to be used for purposes other than lawful functions of WSSU or any sublessee; and provided that the Field House, as remodeled, improved or altered, on completion of such remodeling, substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Field House immediately before such remodeling or such making of substitutions, additions, modifications and improvements.

ii. WSSU may also, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Field House. All such machinery, equipment and other tangible property shall remain the sole property of WSSU in which neither the City, nor any assignee of the City shall have any interest; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to the Field House shall be immediately transferred to the City, subject to this Lease and shall be included under the terms of this Lease, if the City reasonably determines that the Field House would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

iii. Neither WSSU nor the City is under any obligation, except the Capital Cost Reserve Fund, to renew, repair or replace any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary equipment. Either party may renew, repair or replace any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary equipment at its own expense.

iv. The City and its assignees will cooperate with WSSU in implementing WSSU's rights to dispose of equipment and will execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

v. If WSSU desires to make any material permanent changes or improvements to the Field House, it shall submit plans and descriptions of said changes or improvements to the City for approval and, if necessary, to any applicable authority as directed by the City, prior to any changes or improvements being made. All said improvements or changes will be made at the sole expense and liability of WSSU and shall become the property of the City, unless the parties agree otherwise, at the end of the term of this Lease. WSSU will be responsible for such permanent changes, improvements, and fixtures at the Field House, and will be responsible for the repair of, or payment for, any damage to property or injury to any person that may be caused by or result therefrom. If the City chooses to assume responsibility for maintenance of any permanent improvement made by WSSU, such choice being made in writing and executed by the City Representative, then the City will be responsible, as required by law, for the repair of, or payment for, any damage to property or injury to any person that may be caused by or result therefrom. If the City desires to make permanent changes or improvements or to add fixtures to the facilities currently located at Field House, it shall submit a description of said change, improvement or fixture to WSSU for its review. The City will not make improvements to the Field House which will substantially interfere with WSSU's use of the Field House as provided in this Agreement.

vi. WSSU may make certain temporary changes to the Field House relating to the activities and events described above. WSSU will be responsible for such temporary changes to the Field House, and will be responsible for the repair of, or payment for, any damage to property or injury to any person that may be caused by or result therefrom.

vii. With the City's consent, which consent shall not be unreasonably withheld, during the existence of this Lease, WSSU may make minor alterations, attach fixtures and equipment, add or change door locks, paint or alter the landscaping or other such activities in or upon the Field House. Such fixtures, equipment or minor alterations placed in or upon or attached to the Field House under this Lease shall be and remains the property of WSSSU and may be removed therefrom by WSSU prior to the termination of this Lease or any renewal or extension thereof, or within a reasonable time thereafter. WSSU shall have the duty to remove any improvement or fixture placed by it on the Field House or to restore any portion of the Field House altered by it. In the event WSSU elects to remove the improvements or fixtures and such removal causes damage or injury to the Field House, WSSU will repair only to the extent of any such damage or injury. A minor alteration is one that does not modify the structure of or add square footage to the Field House. WSSU shall not make a major alteration to the Field House without first entering into a duly authorized and executed agreement with the City. It is further agreed that any equipment placed in the Field House by WSSU and not permanently attached to the Field House shall not be considered a permanent alteration or improvement.

viii. WSSU is responsible for the control and supervision of all its employees, students and guests present at the Field House as a result of and relating to the activities, classes, and events. WSSU is responsible for leaving the Field House (but not as a result of a City-sponsored or scheduled event) in a neat, clean, and orderly condition free from litter and trash.

b. Regarding the Stadium, the WSSU agrees to the following restrictions and the City reserves the following rights, control and responsibilities:

i. The right to manage the Stadium and to enforce all necessary and proper rules for its safe and efficient operation. WSSU's student, faculty, staff and guests may utilize corridors, lobbies, halls and grounds for ingress and egress to Stadium seating, concessions and restrooms. The City shall have free and unfettered access at all times to all areas of the Stadium. The City shall have the right to control all Staffing in the Stadium and shall also have the right, with its officers and agents, including its police officers, to deny any person or persons access to any portion of the Stadium, as well as to remove any person or persons from the Stadium, including WSSU's employees. WSSU waives any and all claims for damages against the City, its agents and employees, arising out of or resulting from the lawful ejection of any person from the Stadium.

ii. Performance Approval. City retains approval right of any performance, exhibition or entertainment to be offered under this Lease and WSSU agrees that no Event or portion thereof shall be given if the City provides WSSU with a written objection on the grounds of character offensive to public moral, failure to uphold Event advertising claims or violation of Event content. Restrictions shall be agreed to by both parties on an Event by Event basis.

iii. Parking. City reserves the right to charge a reasonable fee to each motor vehicle entering the Stadium parking lots. All parking revenues shall remain the exclusive property of the City. In the event City shall charge a fee to park in the Stadium lots, City shall not charge WSSU for parking attendants pursuant to paragraph 4.b.ii. above.

iv. Food and Beverage Sales/Novelties.

1. WSSU shall not bring, sell or give away any food, refreshments, beverages, tobacco products, flowers, printed matter of any kind, photographs, adhesive decals or stickers, helium balloons, or any other materials without the prior written consent of the City.

2. City shall staff and operate all Food and Beverage Sales throughout the Stadium, at City's expense, and shall retain all revenues derived therefrom.

3. WSSU may elect to sell event-related souvenirs, programs, novelties, or merchandise (collectively known as "Novelties") during an Event. City must approve of the Novelties sold by WSSU and, upon such approval, shall waive the commissions from these sales. The location(s) of and time(s) for WSSU's Novelties sales shall be at the City's discretion. No non-event related novelities will be sold at games without City's permission.

v. Advertising. WSSU agrees that all Event advertising will be honest and true and that WSSU will coordinate with the City on show times, ticket prices, and the advertising schedule. City does not assume any responsibility for payment of advertising arranged by WSSU.

vi. Copyright Fees. WSSU warrants that all copyrighted materials to be performed during a WSSU Event in the Field House or Stadium have been duly licensed or authorized by the copyright owners or their representatives and the WSSU agrees to be responsible for all license and royalty fees incurred by reason of the performance and further agrees to indemnify and to defend the City against any and all claims regarding the violation of infringement of the copyrights and related laws.