

INGALLS FIELD LEASE AND USE AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into effective May 18, 2020, by and between Ripon College, ("College") and the Ripon Area School District ("District").

WHEREAS, the District is the owner of certain property and facilities located at 701 Saint Wenceslaus Street in the City of Ripon and known as Ingalls Field ("Field"), subject to the reversionary interest of the College under the indenture dated May 15, 1939; and

WHEREAS, College and District have been parties to prior agreements for the joint use, control and management of the Field, including an agreement dated July 1, 2001 for a twenty (20) year term; and

WHEREAS, College and District desire to continue their relationship for the joint use, control, and management of the Field under the terms and conditions of this new Agreement, which shall supersede all prior agreements on the subject (except the reversionary interest in the indenture unless expressly modified by the terms of this Agreement), including the agreement between the parties dated July 1, 2001.

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. LEASE. The District agrees to lease to the College, and the College agrees to lease from the District, non-exclusive partial use of the Field for the duration of this Agreement, in accordance with the terms and conditions set forth herein. The College shall have the right to schedule and play athletic games and track meets at the Field. With regard to scrimmages and practices, the District will reasonably accommodate requests from the College with respect to scheduling, provided that the College and the District agree that neither will schedule practices at the same time that the other party is playing an athletic game or track meet with another school. The College shall be entitled to continue to use its logo and other branding at the Field in a manner which is consistent with historical practice.

2. TERM. The term of this Agreement shall be for a twenty (20) year period beginning on February 15, 2020, and ending on February 14, 2040, ("Term"), unless terminated earlier in accordance with the terms of this Agreement. Any continuation of this Agreement beyond its term shall be by mutual agreement of the parties in writing.

3. COMMITTEE. The parties shall establish and maintain a committee ("Committee") for the joint management of the Field, which shall have only the authority set forth

herein, and which shall consist of four (4) full voting status representatives of the College, and four (4) full voting status representatives of the District. At the option of the parties, a non-voting status member "At Large" may be selected to the Committee by mutual agreement of the voting status representatives from both parties.

The Committee shall, from time to time, but no less than once per calendar year, meet to formulate, policies, rules, and regulations governing the use of the Field, and otherwise carry out the responsibilities required of the Committee under this Agreement. The parties also agree that persons holding the following positions shall meet annually in the month of June to review and discuss administration of this Agreement and other matters related to the Field that may arise: For the College – Vice President of Finance and Athletic Director. For the District – Superintendent and Business Manager.

In the event the Committee reaches an impasse on any matter or decision over which it has authority, the Committee shall engage in mediation with a third-party mediator selected by the Committee in an effort to resolve the dispute at issue.

4. IMPROVEMENTS AND REPAIRS. The parties understand and acknowledge that from time to time the Field will require, and/or the parties may desire, the purchase and/or installation of improvements, and repairs/restoration for damage due to normal wear and tear, weather related damage, or other events beyond the control of both parties. The extent and nature of such improvements or repairs/restoration shall be subject to the recommendation of the Committee, and written approval from the College's Vice President for Finance and the District's Board of Education President. Upon joint approval of the improvements or repairs/restoration, the total cost thereof shall be borne one-third (1/3) by the College and two-thirds (2/3) by the District, unless otherwise mutually agreed by the parties.

5. NAME OF FIELD. The Field shall be known as "Ingalls Field".

6. MAINTENANCE. Except as otherwise expressly provided in this Agreement, the District shall be responsible for conducting the general maintenance of the Field not associated with any particular event held at the Field to the standard at which it has historically been maintained.

The actual expenses for preparing the track and field areas of the Field for events and games shall be borne one-third (1/3) by the College and two-thirds (2/3) by the District. Such shared expenses include, but are not limited to, the cost of cleaning the Field and its facilities, annual deep grooming of the artificial field, weekly "fluffing" of the field, adjusting the goal posts for college football specifications, applying herbicides, and mowing and trimming natural vegetation.

Post-event clean-up of the Field, including the turf, bleachers, locker room, concession areas, and common areas, is the responsibility of the party that made immediately prior use of the Field, or whose agent(s) made immediately prior use of the Field. Post-event clean-up of the Field shall restore the facility's state of cleanliness and order to pre-event conditions. In the event the Committee determines that the Field's facilities and/or equipment have been damaged beyond normal wear and tear as the result of a particular game or event, the party that made immediately prior use of the Field, or whose agent(s) made immediately prior use of the Field, for that particular game or event, shall be responsible for the cost of repair or replacement to restore said facilities and/or equipment to their pre-event condition, unless otherwise agreed by the parties.

7. **TERMINATION.** This Agreement may be terminated by either party prior to the expiration date of the Agreement term identified in Section 2 in the event of a material breach of the Agreement by the other party. Prior to any such termination, the party alleging a breach shall give written notice to the other party and the other party shall have ten (10) calendar days to cure any such breach from the receipt of this notice, except that under circumstances where a cure of the breach is not possible, the Agreement may be terminated by the non-breaching party upon ten (10) calendar days written notice to the breaching party without any right to cure. In the event that use of the Field is no longer required by the College during the term of this Agreement as a result of the College acquiring other facilities for the same purposes as its use of the Field, the College agrees, without further consideration, to release, by proper instruments, its reversionary interest in the Field forthwith to the District, and this Agreement shall thereafter immediately terminate.

8. **INSURANCE.** Each party shall, during the term of this Agreement, procure and maintain liability insurance coverage, at its own cost, in amounts determined to be reasonably adequate to cover liability for damages arising out of the parties' respective use of the Field. If requested, each party shall promptly provide the other with certified copies of the policies of insurance. The College may not rent the Field to a third party.

9. **INDEMNIFICATION.** To the extent permitted by law, each party agrees to indemnify and hold harmless the other party, and the other party's officers, employees, agents, and representatives, from any and all loss or liability including claims, demands, judgments, costs, damages, attorneys' fees, and expenses of any nature whatsoever to the extent that such loss or liability arises out of the negligent acts or omissions of any of the indemnifying party's officers, employees, agents, or representatives.

10. **ENTIRE AGREEMENT.** This Agreement represents the full and final agreement between the parties, superseding any oral, written or other agreement between the parties (except for the reversionary interest of the College in the indenture unless expressly modified by the terms

of this Agreement), including but not limited to the parties' prior agreement dated July 1, 2001, concerning the matters addressed herein.

11. NO WAIVER. Any failure by either party to insist upon the performance of any provision of this Agreement shall not constitute a waiver of any rights under the Agreement or future performance of that provision.

12. GOVERNING LAW. This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Wisconsin.

13. SEVERABILITY. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

14. BINDING EFFECT. The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, legal representatives, and assigns of the parties hereto.

15. MODIFICATION. The parties hereby agree that this Agreement shall not be modified, changed, altered or amended in any way except through a written amendment signed by both parties hereto.

IN WITNESS WHEREOF Ripon College, by its President and Secretary of the Board of Trustees, and the Ripon Area School District, by its School Board President and Clerk, have caused this Agreement to be executed as of the date first written above.

RIPON COLLEGE:

By: Zachariah Messitt
Zachariah Messitt, President

Date: 6/18/20

By: William MacLeod
William MacLeod, Sec Bd of Trustees

Date: 6/16/20

RIPON AREA SCHOOL DISTRICT:

By: David P. [Signature]

Date: 5-18-20

By: Margaret Whitbeck

Date: 5-18-20