

SECOND AMENDMENT

This Second Amendment to the University Banking Services Agreement, (“Second Amendment”), is made and entered into this 30th day of July, 2014 (the “Second Amendment Effective Date”) by and between Mercyhurst University (“University”) and PNC Bank, National Association (“PNC Bank”). All capitalized terms used in this the Second Amendment shall have the meaning given them in the Agreement unless the context hereof clearly requires otherwise.

WHEREAS, University and PNC Bank entered into a University Banking Services Agreement (“Agreement”) dated December 21, 2009, as amended by the First Amendment dated March 12, 2012 (collectively the “Agreement”); and

WHEREAS, the parties hereto wish to make certain changes to the Agreement as reflected in this Second Amendment.

THEREFORE, in consideration of the mutual covenants herein contained and intended to be legally bound the parties hereby agree as follows:

1. Section 2 of the Agreement, Term, shall be deleted in its entirety and replaced in its entirety with the following:

“The Initial Term shall expire on December 31, 2014, and the Agreement shall renew on the January 1, 2015 (the “First Renewal Term Effective Date”) and shall terminate on December 31, 2019 (“First Renewal Term”).” The First Renewal Term hereof shall have one (1) optional renewal term of five (5) years under the mutually agreed upon terms, (“Additional Renewal Term”). The University shall provide a ninety (90) day prior written notice to PNC Bank if it wishes to renew the Agreement. The First Renewal Term and the Additional Renewal Term may be referred to herein as “Term.”

2. Section 3 of the Agreement, “Royalty, Payment Terms.”, shall be amended in part to include new Program Goals for years 2015 through 2019, an adjusted signing bonus and new annual payments amounts.

3. Section 3(a) of the Agreement, “Royalty, Payment Terms.” shall be deleted in its entirety and replaced in its entirety with the following new subsection 3 (a).

The parties will review the success of the Program on an annual basis and confirm Program goals for the upcoming year.

Annual Goals

	2015	2016	2017	2018	2019
Student	495	495	495	495	495
Faculty/Staff	15	15	15	15	15
TOTAL	510	510	510	510	510

4. Section 3(c) of the Agreement, “Royalty, Payment, Terms”. Shall be deleted in its entirety with the following subsection 3(c):

In exchange for the Preferred Provider marketing rights to University's students, faculty and staff, the ability to leverage marketing opportunities in conjunction with ATM exclusivity, ID Card Linking and a *co-branded Visa debit card*, PNC Bank will pay University an annual royalty fee.

Annual Payment

Annual payments to be made each year within sixty (60) days of the end of the previous calendar year if the annual new account production goals are met for the calendar year:

- 2015 - \$40,000 (Payable by February 1, 2016 for 2015 production)
- 2016 - \$45,000 (Payable by February 1, 2017 for 2016 production)
- 2017 - \$45,000 (Payable by February 1, 2018 for 2017 production)
- 2018 - \$45,000 (Payable by February 1, 2019 for 2018 production)
- 2019 - \$45,000 (Payable by February 1, 2020 for 2019 production)

TOTAL - \$220,000 over the term of the agreement

Royalty payments are calculated based upon annual new checking account production throughout the term. If the new checking account production goal is not met, the royalty payments will be pro-rated based upon the actual new accounts obtained relative to the goal, however, no less than 2/3^{rds} of the revenue will be paid regardless of the production goals achieved.

For any calendar year in which the Program Goal Total is exceeded, and eighty percent (80%) of the Faculty/Staff Program Goals have been met, additional Royalty payments would be available as follows:

Percentage Program Goal Total is Exceeded	Percentage of Additional Royalty (Maximum allowed - 20%)
1%	1%
2%	2%
3%	3%
4%	4%
5%	10%
6%	11%
7%	12%
8%	13%
9%	14%
10% or greater	20%

PNC Bank shall forward royalty payments due the University annually by ACH sent to the account designated in writing by the University, by check to the address designated by the University in writing, or delivered by hand.

5. Section 3 is hereby amended to add a new subsection 3(d) to read in its entirety as follows:

Signing Bonus

Within sixty (60) days of the signing of a formal agreement PNC Bank shall pay University: **\$40,000.00**.

The University shall repay to PNC Bank a certain percentage of the Signing Bonus, described above, (a) should the University terminate the final written agreement prior to December 31, 2019, for any reason other than a default by PNC Bank, or (b) the Agreement is terminated by either party pursuant to Section 17(d). The percentage paid by the University shall be in accordance with the repayment chart set forth below.

Year Agreement Terminated	Signing Bonus Repayment Percentage
2015	100%
2016	75%
2017	50%
2018	25%
2019	0%

6. Section 3 is hereby amended to add a new subsection 3(e) to read in its entirety as follows:

(e) Notwithstanding anything to the contrary contained in this Agreement:

- (i) if any federal or state law is enacted, or regulation promulgated by a federal or state agency with supervisory or enforcement authority over University or PNC Bank, (“New Law”), and
- (ii) the New Law makes it impossible, impracticable or unduly burdensome for (a) PNC Bank to deliver the Financial Services under the Program, or (b) the University to satisfy its obligations under the Agreement, then
- (iii) either party shall promptly notify the other party in writing no later than thirty (30) days after learning of the pending implementation or passage of the New Law, then
- (iv) the parties shall meet as soon as practicable to discuss in good faith the continued viability of the Agreement as intended by the parties, and
- (v) within sixty (60) days from the date of the notice or the effective date of New Law, whichever is sooner, either party may terminate the Agreement in accordance with Section 17(d) of this Agreement.
- (vi) For each partial or total calendar year after the effective date of the New Law, but prior to the termination of the Agreement, PNC shall be excused from making to the University any Royalty payment or additional Royalty payment under Section 3(c) hereof and the University shall return to PNC Bank any such amounts paid under Sections 3(c) if already remitted by PNC Bank.

7. Section 4(a) is hereby deleted in its entirety and replaced in its entirety with new subsection 4(a) to read in its entirety as follows:

(a) PNC Bank shall provide Financial Services during the Term. The Program is designed to attract Constituents that do not have an Account with PNC Bank, and does not include the solicitation of credit cards or student loans. PNC Bank shall actively advertise and promote the Program as authorized, by law, on the University campus, via approved University mediums and using approved University Marks. The Program shall include: presenting financial seminars to students and employees; and opening new Accounts for University students, and employees. ATMs shall be provided pursuant to a separate Master License Agreement, **Exhibit A**, which is attached hereto and incorporated herein by this reference.

Notwithstanding the foregoing, the advertising and/or promotion of the Program shall not prohibit PNC Bank from marketing its financial products or services to Constituents who:

1. Are or become PNC Bank customers;
2. Solicits financial information within a PNC Bank branch; or
3. Independently utilizes electronic media for information regarding PNC Bank products and/or services.

8. Section 4 is hereby amended to add a new subsection 4(d) to read in its entirety as follows:

(d) Accounts established under this Agreement may be eligible for a co-branded Visa Check[®] Card. PNC Bank shall have the exclusive right to issue the co-branded Visa Debit Card. PNC Bank will issue the Visa Debit Card upon request by a PNC Bank Accountholder.

9. Section 17 is hereby amended to add a new subsection 17(d) to read in its entirety as follows:

(d) Either party may terminate this Agreement prior to the end of the then current Term upon sixty (60) days prior written notice to the other, in the event that any New Law makes it impossible, impracticable or unduly burdensome for either PNC Bank to deliver the Financial Services under the Program, or the University to satisfy its obligations under the Agreement. In the notice of such termination, the terminating party shall reasonably describe to the non-terminating party those provisions of the New Law that have caused the issuance of said termination notice.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, intending to be legally bound, each party hereto has caused its duly authorized representative to execute this Second Amendment on its behalf, as of the Second Amendment Effective Date.

PNC Bank, National Association
("PNC Bank")

By: 
Nickolas Certo

Title: Senior Vice President

Date: 7/30/14

Mercyhurst University
("University")

By: 
JANE M. KELSAY

Title: VICE PRESIDENT FOR FINANCE
AND TREASURER

Date: 8-6-2014