

CITY OF BROKEN ARROW
PARKS AND RECREATION USE AGREEMENT

This Agreement is entered by and between the City of Broken Arrow, Oklahoma, a municipal corporation (**CITY**) and the Broken Arrow Softball Club Inc. (**BASCI**).

I. LICENSE

The **CITY** grants a **non-exclusive** license to **BASCI** to use land and improvements located in the City of Broken Arrow, Oklahoma popularly known as the Al Graham softball fields at Indian Springs Sports Complex and more particularly described as the parcel of land lying in the SE/4 of Section 9, T-17-N, R-14-E, Commencing at a point on the east line of said Section 9; a distance of 3,304.62 feet South of the Northeast Corner of Section 9; Thence due West for a distance of 112 feet to the POINT OF BEGINNING; Thence S15°02'44"W a distance of 520 feet; Thence due West a distance of 620 feet; Thence due North a distance of 500 feet; Thence due East a distance of 750 feet to the POINT OF BEGINNING, said parcel containing approximately 7.8880 acres more or less (**PREMISES**).

BASCI users shall be defined as adult softball teams registered with **BASCI**. All other groups or individuals shall be considered non-**BASCI** users.

BASCI shall submit a written schedule or give access to an electronic schedule of all games, scrimmages, tryouts, clinics and camps to the (**DIRECTOR**) of the Broken Arrow Parks and Recreation Department prior to the commencement of the softball season. **BASCI** shall stagger the starting times of games so as to minimize traffic flow problems at the complex.

BASCI shall submit in writing, any and all bid materials regarding tournaments/clinics/camps, to the **DIRECTOR** if said tournament/clinic/camp will require additional **CITY** involvement in regards to the playing surfaces or improvements, before documents are submitted to the Adult Softball Governing Body. The **DIRECTOR** shall confirm, in writing whether said specifications and improvements to the facility can be met.

DIRECTOR reserves the right, in his-sole discretion, to close **PREMISES** and cancel all activities when, due to inclement weather or other problems, public safety or the preservation of **PREMISES** are threatened.

BASCI shall be responsible for scheduling the use of the fields and restrooms by other users, including other softball clubs and shall use a standardized use of fields form (**EXHIBIT B**). Use of fields shall be reserved for others, by the **BASCI** designee, in a non-partial way, as to allow maximum utilization of fields other than as agreed upon and approved by the City based upon field use data and standardized field turf rest/recovery periods. **BASCI** may charge for use of fields and restrooms by non-**BASCI** users. The fee schedule must be submitted to the **DIRECTOR** for his approval, prior to implementing such charges and attached to this agreement as (**EXHIBIT A**). **BASCI** shall allow the City to use, at no charge, the adult softball fields and associated restrooms when schedule permits. In case of scheduling conflict, the decision of **DIRECTOR** shall be final.

CITY and/or **BASCI** will not approve any requests, by any individuals or organizations, to use any of the above described **PREMISES** as regular practice fields.

BASCI shall collect from non-**BASCI** user's documentation as required by the **CITY** in regards to scheduling application, insurance requirements and payments; and shall provide the **CITY** a copy of said documents.

BASCI shall pay a user fee to the **CITY** a sum of nine dollars (\$9.00) per each regular season game, scrimmages, and tournament games. Clinics, camps, training sessions, and try-outs are to be paid at a rate of nine dollars (\$9.00) per two-hour period. All user fees are to be paid to the **CITY** no later than one month after the spring and fall season. All user fees are to be paid within one month after each tournament played. All payments must be made out to the City of Broken Arrow and accompanied by the number of games played. All activities scheduled shall be under the supervision of a uniformed umpire in the case of games or scrimmages or **BASCI** approved training coaches for clinics, camps and try-outs. This fee may increase in future contracts due to an increase in utility costs and/or general operating costs.

BASCI may operate concession facilities during its scheduled activities after obtaining any necessary permits and submitting copies of said permits to **CITY**. **BASCI** may operate mobile concessions when participation warrants additional need and after obtaining any necessary permits and submitting copies of said permits to **CITY**.

CITY shall appoint one person who may attend any of the **BASCI** meetings. **BASCI** shall send the appointee timely notice of all meetings. Appointee shall serve as liaison between **CITY** and **BASCI**.

BASCI shall maintain accounts with correct entries of all income and expenditures. Books of accounts and related invoices shall be the property of **BASCI**, but shall be open for inspection and copying by **CITY** upon reasonable notice during normal business hours.

II. TERM

This Agreement shall commence upon execution and shall expire December 31, 2021 unless terminated earlier in accordance with the terms and conditions of this Agreement. This Agreement does not renew automatically.

III. IMPROVEMENTS

PREMISES shall remain the property of **CITY**, and may not be modified, altered, or destroyed without the prior written permission of **CITY**. Further, no improvements, structures or fixtures of any kind may be built or brought upon said property without the prior written permission of **CITY**.

All locks on **PREMISES** shall be maintained as directed by **DIRECTOR**; **BASCI** may not remove or change any locks on **PREMISES** without the prior approval of **DIRECTOR** and without first supplying **DIRECTOR** with the combination or key to any new locks.

Any additions or modifications shall become the property of **CITY** unless **CITY** gives **BASCI** prior written permission to remove the additions or modifications, in which case **BASCI** shall remove the improvements in a manner approved by **CITY** immediately upon termination of this Agreement and restore **PREMISES** to the condition which existed prior to the addition or modification.

IV. MAINTENANCE

BASCI acknowledges that it has inspected the **PREMISES** thoroughly, has participated in the construction and maintenance of improvements and equipment on the **PREMISES**, and has had open access to **PREMISES** for a number of years, and therefore has full knowledge of the conditions of the **PREMISES**. **CITY** makes no representations or warranties, express or implied, as to the condition of **PREMISES**.

BASCI shall inspect **PREMISES** immediately prior to and immediately after each use, and shall immediately notify **CITY** of any damages or of any repairs, which may be required. In the event that any

defect may threaten the safety and welfare of participants or the general public, **BASCI** shall not allow individuals to utilize **PREMISES** until the defective portion of **PREMISES** has been repaired or replaced. **BASCI** shall be solely responsible for any replacements or repairs it authorizes or performs.

As partial consideration for this Agreement: **BASCI** shall supply, solely at its own expense, paper products and cleaning supplies. **BASCI** shall supply, solely at its own expense, all necessary equipment. After each use of **PREMISES**, **BASCI** shall clean the restrooms and re-supply them with paper products. After each use of **PREMISES**, **BASCI** shall pick up all trash at the softball complex, and deposit the same in commercial dumpster(s) provided by **BASCI**.

Only **CITY** or **BASCI** may utilize the office/storage/concession building (**Building**) for **BASCI** or **CITY** business activities. There shall be no subletting of the **Building** nor shall anyone be allowed to operate a private enterprise from the **Building**. Only equipment and supplies owned and/or leased by **BASCI** or **CITY** for the maintenance and operation of **PREMISES** may be stored in the **Building**.

BASCI, shall, solely at its own expense, drag, and mark all infield play areas regularly. **BASCI** shall be responsible for watering the dirt on the playing fields as necessarily required for play.

BASCI shall supply field marking paint and **CITY** personnel shall paint outfield lines. **BASCI** at any time during the life of the contract may submit in writing to the **DIRECTOR**, for his approval, that **BASCI** is willing and knowingly taking over painting of field lines in their entirety for the described **PREMISES** for the remaining life of this contract. Once approved by **DIRECTOR** the nine dollar (\$9.00) per regular season game, scrimmage, and tournament game fee will be lowered to eight dollars (\$8.00) per regular season game, scrimmage, tournament game, and two-hour period for clinics, camps, training sessions, and try-outs.

BASCI is responsible for marking any field dimension changes prior to **CITY** personnel painting lines. Paint for field lines and any agricultural chemicals to be used on **PREMISES** shall first be approved by the **CITY**.

CITY shall regularly mow **PREMISES** and re-seed or re-sod as necessary. **CITY** shall regularly perform turf maintenance (weed control, fertilization and pest control) on **PREMISES**. **CITY** shall regularly inspect and maintain the irrigation fixtures (heads, valves, and control box) on **PREMISES**. Upon notification of necessity from **BASCI**, **CITY** shall maintain and repair the electrical and plumbing systems and the concession, restroom, and maintenance structures on **PREMISES**. Upon notification of necessity from **BASCI**, **CITY** shall maintain and repair or replace the bleachers and benches, fences and lights.

BASCI agrees to take all reasonable precautions to prevent waste, damage or injury to **PREMISES** by **BASCI** or by any team or individual under **BASCI'S** auspices or by any member of the audience attending **BASCI** events.

BASCI agrees to provide staff or volunteers to control the parking lot during all **BASCI** activities and to prevent individuals from parking on any unpaved or unauthorized areas.

CITY retains the right to enter **PREMISES** at any and all times, without prior notice, to inspect **PREMISES** or to conduct maintenance or repairs, or for the purpose of determining whether **BASCI** is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of **CITY** under this Agreement.

BASCI shall promptly reimburse **CITY** for the cost of parts and labor for the replacement or repair of turf, bleachers/stands, concessions buildings, restrooms, and other improvements to the land, for any

cause other than normal and routine wear and tear and "Acts of God," and for **CITY'S** cost in performing any of **BASCI'S** contractual duties. **BASCI** shall not be liable to **CITY** for any acts of vandalism which, upon investigation, are not attributable to the acts, omissions, negligence or misconduct of **BASCI**, its guests, invitees, members, volunteers, representatives, employees agents, officers, contractors or subcontractors.

V. SIGNS

BASCI may place temporary signs on the chain link fences surrounding the playing fields, according to the following terms and conditions:

- a) All signs shall only be constructed of canvas, plastic or cardboard and shall be of a size and shape that will not cause damage to the fencing structure to which it is attached during normal use or during periods of inclement weather. Under no circumstances shall signs constructed of wood, metal, or other heavy material be used, nor shall any extension be used to enlarge the area covered. All signs shall be easily removable from fencing structures. **Signs may not be displayed in locations where they are visible from any public street.**
- b) No signs shall be affixed before the first day of regular sanctioned play and all signs shall be removed on the last day of regular sanctioned play, including preseason or postseason tournament play.
- c) No signs shall contain advertising copy selling items that are not legally available to minors, including, but not limited to, alcoholic beverages (both "intoxication" and "non-intoxicating" as defined by Oklahoma Statutes) and tobacco products, nor shall they contain obscene or profane language, symbols, or pictures. **BASCI** agrees that the term "obscene" as defined in Section 7-45 of the Broken Arrow Code shall be applicable with respect to all signs affixed under this license.
- d) **BASCI** agrees to make reasonable efforts to remove all signs during periods of high wind, flooding, and/or similar inclement weather.
- e) **BASCI** agrees that it is solely responsible for the maintenance of signs and further agrees that it is responsible for the removal of any signs that become damaged during the course of the Season. **BASCI** releases the **CITY** from any and all liability for damages to any signs resulting from said **CITY'S** maintenance of the playing fields, acts or omissions or **CITY** officials and/or employees, wind, flooding, fire, or other acts of god, and further acknowledges that **CITY** has the right to remove any and all damaged signs without permission of **BASCI**. If any sign becomes a nuisance, the **CITY** has the right to remove it without permission of **BASCI**. The **CITY** agrees, to an extent reasonable and possible, to try to notify **BASCI** that it has removed a sign(s), which the **CITY** easily and readily determined belonged to **BASCI**. The **CITY** shall not be held liable and is relieved of any and all liability suffered by **BASCI** or any of its members, representatives, officers, agents, or assigns for any losses that **BASCI** may incur by the **CITY'S** failure to make such notification.

VI. STAY TO PLAY

BASCI shall be responsible for implementing *Stay to Play*. All **BASCI** commuting players and coaches are required to book accommodations in the Broken Arrow city limits. **BASCI** shall provide a list of Broken Arrow hotels on their website. **BASCI** shall cross-reference all participating teams prior to the event to ensure that all registered teams are in compliance with the rules.

BASCI shall implement the following *Stay to Play* Rules:

- Teams must book enough rooms to accommodate every player and coach on their tournament roster for the duration of the competition.
- Teams must book a minimum of one (1) night at hotels in Broken Arrow city limits if the duration of the competition is more than one day.
- Each team must abide by the hotel's occupancy policies.
- Teams are not permitted to book accommodations prior to the opening date for registration and accommodations.
- Teams can only stay at hotels located in the Broken Arrow city limits.

Exemptions from *Stay to Play*:

BASCI may offer exemptions from *Stay to Play* for both teams and individuals under the following categories:

1. Proximity Exemption Request: If the player/coach lives within 150 miles from the competition venue or the player/coach plans to stay with family or friends that reside within the proximity distance, the player/coach may be eligible for an exemption from the policy.
2. Special Exemption Request: A Special Exemption Request will need to be completed for all other exemption requests. Requests will be considered on a case-by-case basis and will be reviewed by a **BASCI** review committee.

All exemption requests shall be submitted to the Parks and Recreation Director or his designee. The City may require a hotel pickup confirmation at any time for any team, player and/or coach. **BASCI** shall be subject to a **\$100.00 fee per night** for any player/coach who fails to stay at a hotel located within the City of Broken Arrow.

Stay to Play has been put in place to benefit teams, local businesses, and **BASCI**.

VII. INDEMNIFICATION

As partial consideration for this Agreement, **BASCI** agrees to indemnify, defend (at **CITY'S** option), and hold harmless **CITY**, its employees, officials, agents, representatives and volunteers from and against any and **all liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings and reasonable attorney's fees, and actual damages of any kind or nature**, arising out of or in connection with any aspect of the acts, omissions, negligence or misconduct of **BASCI**, its guests, invitees, members, volunteers, representatives, employees, agents, officers, contractors or subcontractors, including but not limited to permitted and non-permitted uses of **PREMISES**, whether during an approved, supervised activity or not, any injury or damage that occurs on or about the **PREMISES** relating to **BASCI** activities, or **BASCI'S** performance or failure to perform the terms and conditions of this Agreement.

Such indemnification, hold harmless and defense obligation shall exclude only such liability actions as arise directly out of the sole negligence or willful misconduct of **CITY** and in accordance with the terms, conditions and exceptions contained in the Governmental Tort Claims Act. The indemnification and defense obligations set forth herein shall survive the termination of this Agreement.

BASCI shall provide **CITY** with prompt written notice of any serious injuries (serious injuries include all injuries which require medical treatment), written or oral complaints received, actual or anticipated disputes with or claims by any individual, and any lawsuits by any individual relating to any activities on or about **PREMISES**.

VIII. INSURANCE / WAIVER OF SUBROGATION

Without limiting **CITY'S** right to indemnification, **BASCI**, its contractors and subcontractors shall obtain insurance in no less than or in terms more restrictive than the following:

General Liability Insurance covering all **PREMISES** and activities. The applicable limit of liability shall not be less than One Million Dollars (\$1,000,000.00) per claimant, One Million Dollars (\$1,000,000.00) annual aggregate;

Worker's Compensation Insurance Coverage in compliance with the Worker's Compensation Laws of the State of Oklahoma; and

Comprehensive Automobile Liability Insurance applicable to all owned, hired and non-owned vehicles in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.

BASCI shall include **CITY**, its officials, representatives, agents and employees as Additional Insured on all required insurance policies. **BASCI** shall also require its contractors, subcontractors and any third party users to list **CITY** as Additional Insured. **BASCI** shall arrange for certificates of insurance and endorsements to be submitted to the **CITY'S** Risk Manager for approval prior to allowing any individuals, including but not limited to any contractors or subcontractors, to commence work or engage in any activities under this Agreement.

Such coverage shall not be canceled or materially changed without giving **CITY** at least thirty (30) days prior written notification thereof. The insurers shall have no recourse against **CITY** for payment of any insurance premiums. Any insurance protecting **CITY** against any loss relating to or arising out of the subject of this Agreement shall be made payable solely to **CITY**.

BASCI and its contractors, subcontractors and any third party users shall maintain the required insurance with insurers that carry a Best's "A" or equivalent rating and which are licensed and admitted to write insurance business in Oklahoma. Such insurance shall not be invalidated by any action or inaction of **BASCI** and shall insure **CITY** regardless of any breach or violation by **BASCI** of any warranty, declaration or condition contained in such insurance. Failure of **BASCI** or its contractors and subcontractors to obtain and maintain any required insurance shall not relieve **BASCI** from any liability hereunder.

BASCI hereby waives, on its own behalf and on behalf of its insurers, every claim for recovery from **CITY** for any and all loss or damage to the extent that the damage is covered by valid and collectible insurance policies. **BASCI** agrees to give to each insurance company, which has issued, or may issue in the future, policies of insurance, written notice of the terms of this waiver and to have said insurance policies endorsed as necessary by reason of this waiver.

IX. DEFAULT

This Agreement shall be subject to termination upon the abandonment of **PREMISES** for a period of thirty (30) days, or upon the failure of **BASCI** to keep, perform and observe all promises, covenants, conditions and agreements set forth in this Agreement, provided that time limits may be extended in the manner and to the extent allowed by **CITY**, where fulfillment of such obligation requires activity over a period of time and **BASCI** has commenced to perform whatever may be required to cure the default and continues such performance diligently.

The right to terminate this Agreement upon default of **BASCI** is not exclusive and is in addition to any other rights and remedies provided by law or under this Agreement. Any waiver of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this Agreement or estopping **CITY** from enforcing the full provisions thereof.

X. TERMINATION

Either party may terminate this Agreement for cause upon giving the other ten (10) days prior written notice. If this Agreement is terminated, **CITY** will be paid for costs incurred up to and including the date of termination, including but not limited to the costs of repairing **PREMISES** to the condition existing at the beginning of this agreement and the costs of storing **BASCI'S** property at a public warehouse selected by **CITY**. The rights reserved in this section are alternative and in addition to, not in lieu of, any other rights and remedies provided by law or under this Agreement. Termination of this Agreement shall not terminate **BASCI'S** liability for any losses, which have occurred on or prior to that date, regardless of whether notice of the claimed loss has been received by either party.

Neither this Agreement, nor any of the rights hereunder, shall be sold, assigned or encumbered by **BASCI**. Any attempt to sell, assign, alienate or encumber **PREMISES** or this Agreement shall be cause for immediate termination of this Agreement.

In the event of substantial or total destruction of **PREMISES** from any cause, either party may declare this lease terminated if repairs or restoration cannot be effectively accomplished within thirty (30) days of the loss at a reasonable cost, with the reasonableness of said costs being within the sole judgment of **CITY**. In the event that the **PREMISES** are repaired or restored by **BASCI** at the sole expense of **BASCI** or at the expense of insurance carriers, this Agreement shall not be terminated.

XI. LAWS

This Agreement shall be construed under the laws of the State of Oklahoma; Exclusive Original Jurisdiction for any action relating to this Agreement shall be solely in the Tulsa County District Courts of Oklahoma. **BASCI** shall conform to and abide by all Federal, State and local laws and regulations regarding the subject of this Agreement. This Agreement is not a waiver of any permit, Inspection or other legal requirements, and does not assure approval based upon any circumstances other than compliance with the law.

XII. NOTICES

Any notice or demand required or permitted to be given by the terms of this Agreement or by law shall be in writing and may be given by depositing said notice or demand in the U.S. Mail, certified mail with return receipt requested, addressed to the other party's address, or by personal delivery. Service of said notice or demand shall be complete upon receipt of said notice or demand.

XIII. ENTIRE AGREEMENT

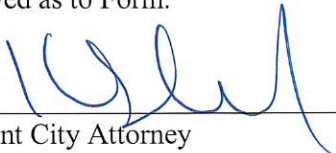
This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all proposals, oral or written, and all other communications between the parties with respect to the subject matter of this Agreement.

If any provision of this Agreement shall be held invalid, such invalidity shall not affect the other provisions hereof, and to this extent, the provisions of this Agreement are intended to be and shall be deemed severable. The parties shall agree, if reasonably practicable, upon provisions, which are equivalent from an economic point of view to replace any provision, which is determined to be invalid.

This document may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates hereinafter set forth.

Approved as to Form:


Assistant City Attorney

City of Broken Arrow

By: _____
Michael Spurgeon, City Manager

Attested:

Broken Arrow Softball Club, Inc.

Signature 

Printed Name: BRAD GORDON

City Clerk Seal

BASCI Mailing Address:

Date of Execution:

PO Box 141405 B.A. OK 74014

VERIFICATION

State of Oklahoma)
)ss.
County of Wagoner)

Before me, a Notary Public, on this 15 day of Dec 2018, personally appeared Brad Gordon, President of the Broken Arrow Softball Club Incorporated, known to me to be the Identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

6-30-19


Notary Public



EXHIBIT A

Resident Fee \$16.00 per game This fee includes the \$9.00 per game base fee to be paid to the **CITY** by **BASCI** no later than one month after the spring and/or fall season.

Non-Resident Fee \$25.00 per game This fee includes the \$9.00 per game base fee plus an additional \$13.00 non-resident fee for a total of \$22.00 per game fee to be paid to the **CITY** by **BASCI** no later than one month after the spring and/or fall season.

For USER's who will be utilizing the restroom facilities only, the rate for restroom facility usage shall be \$30 for groups of less than 30, \$50 for groups of 30 to 50, \$75 for groups of 50 to 75 and \$100 for groups of 75 to 100 paid to **BASCI**.



Broken Arrow Adult Slow Pitch Softball

P.O. Box 141405

Broken Arrow Ok 74014

(918) 636-9575

SOFTBALL FACILITY USE AND RELEASE OF LIABILITY AGREEMENT

This agreement is entered by and between the Broken Arrow Adult Softball Association, Inc. at, Indian Springs Sports Complex, hereafter BAASA, and _____, hereafter USER. USER acknowledges that BAASA has been granted permission to manage the use of the Indian Springs Sports Complex Softball Facilities, known as The Al Graham Softball Fields, hereafter PREMISES, by the City of Broken Arrow, here after CITY. **BAASA hereby agrees to allow USER to utilize the PREMISES as detailed below for the period of:**

Description of PREMISES to be used:
Field(s) and/ or Restrooms:

Use of Softball fields is restricted to scrimmages or games officiated by at least one uniformed, registered BAASA referee with participation by organized teams registered to a League or Club having an affiliation with NSA or other recognized sanctioning body. This is to ensure compliance with recognized rules of play, the BAASA and Broken Arrow Parks & Rec. Guidelines, Liability insurance coverage and the general safety of participants.

USERS of Softball fields for scrimmages or games will have access to fields. BAASA will also provide for opening/closing of area restrooms and the operation of field lighting as necessary. For multigame events concessions will be notified and may be opened at the discretion of the concession operator.

USER's Paying Party is defined as the person or entity providing payment for the use of PREMISES.

For organizations (i.e. clubs, schools, community organizations) the Paying Party shall be the organization and the signatory of this agreement must provide written authorization from

EXHIBIT B

the organization stating his/hers authority to enter into agreements. **For multigame events a 25% prepayment deposit of user fees must be submitted in advance and payment of the balance of user fees accumulated are due on the final day of the event.**

Payment shall be in the form of cash presented in person at the BAASA office at 13600 S. 145th E Ave, Broken Arrow or credit card payment made over the phone to the BAASA office (918)636-9575.

For individuals the Paying Party shall provide proof of direct relationship (i.e. immediate family member) to a participant in the scrimmage or game and payment must be made in advance. Payment shall be in the form of cash presented in person at the BAASA office or credit card payment made over the phone to the BAASA office (918)636-9575.

For USER's who will be utilizing the restroom facilities only, the rate for restroom facility usage shall be \$30 for groups of less than 30, \$50 for groups of 30 to 50, \$75 for groups of 50 to 75 and \$100 for groups of 75 to 100.

For USER's, organizations or individuals that reside in or are located within, Broken Arrow city limits; the multi game rate for Softball field use shall be **\$16 per game and \$275 Field Maintenance and Clean up fee.** An organization's location shall be determined by its physical address. A utility bill proving residency shall be provided by individuals.

For USER's who are not located or who do not reside within Broken Arrow city limits the multi game rate for Softball field use shall be **\$25 per game and \$275 Field Maintenance and Clean up fee.**

For ALL USER's needing only to Scrimmage, the rate for Softball Field use shall be **\$25 per field (Limited to 2 Hours) for Residents of Broken Arrow and \$38 per field (Limited to 2 Hours) for non-Residents of Broken Arrow.** If Scrimmage requires field lights, an additional **\$10 per field (Limited to 2 Hours).** If **Field Maintenance is desired for the scrimmage(s)** an additional **\$139 per field will be added.**

No reservations or schedules shall be confirmed until this agreement has been signed, approved by the appropriate BAASA Staff member and the required payment is made in full.

USER is liable for 50% of the prepayment for multigame events if the event is canceled within 5 days of the scheduled event commencement. Balance of prepayment will be refunded via check.

USER agrees not to interfere with others' scheduled utilization of the PREMISES.

USER shall exit the PREMISES no later than the expiration of the scheduled time slot. BAASA and CITY retain the right to enter any portion of the PREMISES at any and all times.

USER shall obey all Broken Arrow Parks and Recreation Department rules (as attached). Any violations of these rules may result in the immediate termination of this agreement.

EXHIBIT B

USER agrees to take all reasonable precautions to prevent waste, damage or injury to the PREMISES. USER shall promptly reimburse CITY for the cost of parts and labor for any replacement or repair required on the PREMISES as a result of USER'S activities.

The PREMISES, which is the subject of this Agreement, shall remain the property of the City. Such property and any appurtenances thereto cannot be modified or destroyed or altered without the prior, express, written permission of the Parks Director. Neither, may additional appurtenances be built by the USER, without the prior, express, written permission of the Parks Director. Any additions or modifications approved by the City shall become the property of the City upon termination of this agreement unless the City gives express, written permission for the removal of the improvements, in which case, USER shall remove the improvements in a manner approved by the City, and restore remaining City land and improvements to a condition comparable to the condition which existed prior to the removal.

BAASA and CITY makes no representations or warranties, express or implied, as to the condition of the PREMISES. USER shall inspect the PREMISES immediately prior to and after each use, and shall immediately notify BAASA of any damages or of any repairs, which may be required. In the event that any defect may threaten the safety and welfare of USER or the general public, USER shall not allow individuals to utilize the PREMISES until the defective portion of the PREMISES has been repaired or replaced.

After use of the PREMISES, USER shall ensure that all trash/refuse produced during the event is deposited into trash receptacles or dumpsters provided by BAASA.

As partial consideration for this Agreement, USER agrees to indemnify, defend (at CITY'S option), and hold harmless BAASA and CITY, its employees, officials, agents, representatives and volunteers from and against any and all liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens judgments, cost, expenses, suits, actions, or proceedings, reasonable attorney's fees, and actual damages of any kind or nature, arising out of or in connection with any aspect of the acts, omissions, negligence or misconduct of USER, USER'S guests, invitees, employees, agents, and volunteers, including but not limited to permitted and non-permitted uses of the PREMISES and any injury or damage that occurs on or about the PREMISES. Only CITY'S authorized personnel shall move or remove, place or replace position or reposition any of the CITY'S equipment located on or upon the PREMISES.

Without limiting BAASA's or CITY'S right to indemnification, USER shall obtain General Liability Insurance covering all premises and operations including, but not limited to one hundred percent (100%) of the replacement cost of the total values of the leased property, with an applicable limit of liability not less than One Million Dollars (\$1,000,000.00) per claimant, One Million Dollars (\$1,000,000.00) aggregate. **USER shall include the BAASA and CITY, its officials, representatives, agents and employees as Additional Insured with insurers that carry a Best's "A" or equivalent rating and which are licensed and admitted to write insurance business in Oklahoma.**

Individuals must comply with the above or provide proof of equivalent coverage as provided for by another individual or organization in the form of an official letter stating such and a copy of the insurance certificate listing the BAASA and CITY, its officials, representatives, agents and employees as Additional Insured.

EXHIBIT B

USER shall deliver to BAASA an insurance certificate confirming the existence of the insurance required by this Agreement three business days prior to the scheduled use. Failure to provide required insurance will result in the cancellation of this Agreement and the forfeiture of USER'S prepayment.

Such indemnification, hold harmless and defense obligation shall exclude only such liability actions as arise directly out of the sole negligence or willful misconduct of the BAASA or CITY and in accordance with the terms, conditions and exceptions in the Governmental Tort Claims Act. The indemnification and defense obligations set forth herein shall survive the termination of this Agreement.

USER shall promptly notify BAASA and CITY of any serious injuries (all injuries which require medical treatment).

USER understands that there are risks and dangers involved in recreational activities, and agrees, on behalf of USER, USER'S guest, invitees, employees, agents, and volunteers, and their respective family and heirs, to accept these risks knowingly and voluntarily, and waives any and all claims, causes of action, or damages of any kind or nature, including but not limited to any foreseen or unforeseen personal injury (including death), property damages or other losses or damages, against BAASA or CITY which may arise out of or in connection with any aspect of USER'S activities under this Agreement. I understand that BAASA and CITY will rely on this statement, that the terms of this agreement are contractual in nature, and are specifically designed to protect BAASA and CITY.

I HAVE READ, UNDERSTAND AGREE TO THE ABOVE. I HAVE OBTAINED ANY LEGAL ADVICE I BELIEVE I MAY NEED PRIOR TO SIGNING THIS DOCUMENT, AND I SIGN THIS DOCUMENT FREELY AND VOLUNTARILY.

NAME/TITLE (PRINTED): _____ SIGNATURE: _____

Accepted by (BAASA): _____ Date: _____

BAASA USE ONLY:

Prepayment Deposit required (25% of use fees for multi-game events only): \$ _____

Payments Received

Date _____ Amount _____ For _____ Received By _____

Date _____ Amount _____ For _____ Received By _____

Date _____ Amount _____ For _____ Received By _____