**Field Use Agreement**

This Field Use Agreement (hereinafter “Agreement”) is made and entered into this ----- day of------, 2020 (hereinafter “the effective date”) by and between the Town of Marana, an Arizona municipal corporation, on behalf of the Town of Marana Parks and Recreation Department (hereinafter “TOWN”), and the Organization Here, an Arizona non-profit corporation (hereinafter “PERMITTEE”). TOWN and PERMITTEE are sometimes referred to collectively as the “Parties,” either of which is sometimes individually referred to as a “Party.”

1. **Purpose of Agreement.** The purpose of this Agreement is to permit PERMITTEE to use playing fields, spectator areas, parking lots and surrounding areas and facilities at Crossroads at Silverbell Park, Continental Reserve Park, Continental Ranch Neighborhood Park and Wade Mclean Park (hereinafter the “Premises”) for baseball/softball games and practices as provided in this Agreement and in consideration of PERMITTEE’S performance of its obligations under this Agreement. This Agreement is non-exclusive and TOWN may allow other parties to use, lease, or license the Premises during periods of non-use by PERMITTEE throughout the term of this Agreement. TOWN maintains priority usage of the Premises and has final authority on determining use and assignments.
2. **Term.** The term of this Agreement shall be from the effective date to December 31, 2020.
3. **Availability of Premises.** During the term of this Agreement, the Premises shall be available to PERMITTEE on the days and during the times described in PERMITTEE’S season schedule, attached hereto and incorporated herein by this reference as Exhibit A, as those days and times may be amended from time to time pursuant to the procedures set forth in paragraph 4 below. TOWN may need to periodically close specific areas of the Premises for maintenance or repairs; TOWN will attempt to notify PERMITTEE in advance of any such closures and will refund or credit any usage fees for the day(s) and time(s) in question. For reservations PERMITTEE shall comply with the following:
4. For reservations in May, June and July 2020, PERMITTEE shall submit preferred field requests to Town of Marana Recreation Coordinator, starting January 2, 2020. The deadline for these requests is January 19, 2020
5. For reservations in August, September, and October 2020, PERMITTEE shall submit preferred field requests to Town of Marana Recreation Coordinator, starting April 3, 2020. The deadline for these requests is April 20, 2020.
6. For reservations in November and December 2020, PERMITTEE shall submit preferred field requests to Town of Marana Recreation Coordinator, starting July 3, 2020. The deadline for these requests is July 20, 2020.
7. For reservations in January, February, March, and April 2021, PERMITTEE shall submit preferred field requests to Town of Marana Recreation Coordinator, starting September 4, 2020. The deadline for these requests is September 21, 2020.
8. Every attempt will be made to accommodate preferred field requests; however, TOWN does not guarantee field availability.
9. **Changes to Schedule.** PERMITTEEmay make changes to the schedule set forth in Exhibit A as follows:
   1. When additional fields or times are needed other than those listed in Exhibit A, PERMITTEE shall submit a request to TOWN in writing at least three business days prior to the requested reservation date.
   2. When cancelling reservations, PERMITTEE shall provide written notice to TOWN at least one business day in advance of the date of the cancellation. PERMITTEE shall receive full credit for properly cancelled reservations. No refunds or credit will be provided for late cancellations.
   3. Only the following league officials are authorized by PERMITTEE to make changes to PERMITTEE’S schedule on PERMITTEE’S behalf in accordance with this Agreement:
      1. League Presidents
      2. League Treasurer
      3. League Field Coordinator
10. **Fees.** PERMITTEEshall pay all applicable fees for usage of the Premises as those fees are set forth in the Town of Marana comprehensive fee schedule. Fees are subject to change at any time in the discretion of the Marana Town Council.
11. TOWN will invoice PERMITTEE on a monthly basis for PERMITTEE’S use of the Premises. Payment is due within 30 days of each invoice. A late fee in an amount set forth in the Town of Marana comprehensive fee schedule will be added for each 30-day period an invoice remains unpaid.
12. TOWN may delay additional reservations, cancel existing reservations, and reassign fields if TOWN does not receive payments in a timely manner.
13. If PERMITTEE pays any amounts in excess of $300.00 by credit card, TOWN shall add any credit card fees paid by TOWN to PERMITTEE’s next monthly invoice and the credit card fees shall become due and payable by PERMITTEE. Preferred methods of payment include electronic check, automatic debit (checking and routing number required), cash, or check.
14. Any credit remaining on account at the completion of a season will be refunded to PERMITTEE or credited to PERMITTEE’S account.
15. **Conditions of Use.** PERMITTEE’S use of the Premises during the term of this Agreement is subject to the following conditions.
    1. PERMITTEE shall ensure that no vehicles are driven or parked on any playing fields at any time during PERMITTEE’S usage of the Premises. PERMITTEE shall not use any motorized equipment or vehicles to perform field maintenance.
    2. When performing maintenance PERMITTEE must stay three feet from the edge of the outfield grass. PERMITTEE shall not pull the drag mat into the edge of the grass. PERMITTEE shall always rake dirt towards the infield.
    3. PERMITTEE shall ensure that balls are not thrown or hit into fencing or backstops areas. No Peppering into the fence or backstop areas.
    4. PERMITTEE shall ensure that a manager, coach or league official is available at all times during PERMITTEE’S usage of the Premises.
    5. PERMITTEE shall examine the Premises prior to games or practices and shall report any unsafe condition or damage to the Premises to TOWN’s Parks and Recreation Department as soon as possible.
    6. PERMITTEE is responsible for lining of fields.
    7. PERMITTEE shall provide its own bases and shall remove bases at the end of play (unless bases are permanently in the ground) and cap/plug base anchors. If bases are left on infields, they will be removed. TOWN shall provide the first set of caps/plugs. After the first set, PERMITTEE is responsible for purchasing caps/plugs.
    8. PERMITTEE shall not move or remove pitching rubbers, but must contact TOWN if the pitching rubber is not at the correct distance.
    9. TOWN may close the Premises due to inclement weather. PERMITTEE is responsible for obtaining field closure information prior to using the Premises. Information is available by contacting the TOWN’s Parks and Recreation Department administrative office during regular business hours. PERMITTEE shall be held responsible for any damage caused to the Premises by playing in questionable weather, including damage done trying to dry out a field by taking actions such as digging ditches, raking mud into the fencing, or applying a drying agent.
    10. PERMITTEE shall be responsible for the cleanliness of the Premises, including but not limited to the playing fields, spectator areas, parking lots and surrounding areas when operated or used by PERMITTEE. PERMITTEE shall be responsible for trash, debris and litter removal generated as a result of PERMITTEE’S operations and PERMITTEE shall be responsible for depositing trash, debris and litter in appropriate receptacles provided by TOWN for such use. Failure to abide by the terms of this subparagraph (j) shall be grounds for immediate termination of this Agreement by TOWN. In addition, TOWN, in its sole discretion, may clean the Premises at PERMITTEE’S expense.
    11. PERMITTEE shall ensure that all persons using the Premises pursuant to this Agreement:
        1. Observe park hours; Crossroads at Silverbell Park closes promptly at 10:00 pm, Continental Ranch Neighborhood Park, Wade McLean Park, Continental Reserve Park closes promptly at 9:00pm.
        2. Exhibit appropriate conduct and language
        3. Observe Town of Marana park rules, as codified in the Marana Town Code, Title 13
        4. Use the Premises in a safe manner that will not jeopardize the safety and welfare of park users, park equipment or park facilities
16. **Relationship of Parties.** It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between any employees, managers, subcontractors, volunteers, or agents of PERMITTEE and any employees, managers, subcontractors, volunteers, or agents of TOWN. Neither Party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other Party’s obligation to withhold Social Security and income taxes for any of its employees.
17. **Ownership, Repairs, Maintenance and Operation.** PERMITTEE shall not make any alterations, improvements, additions, or changes of any kind to the facilities or Premises nor will PERMITTEE relocate any personal property or equipment or build any permanent structure on the Premises without prior written approval of TOWN. Upon receipt of said written approval, all expenses incident thereto shall be paid by PERMITTEE. PERMITTEE agrees to repair any and all damage to the facilities or Premises caused, in whole or in part, by the PERMITTEE, its managers, employees, subcontractors, agents, volunteers, participants or visitors within ten business days of discovery of the damage. PERMITTEE agrees to surrender the Premises to TOWN in as good a condition as when received, ordinary wear and tear or damage resulting from accidental fire or from causes beyond the reasonable control of PERMITTEE excepted. PERMITTEE agrees that the personal property of TOWN shall not be removed from the Premises but shall be surrendered at the end of the term in good condition. PERMITTEE agrees to remove all equipment and personal property belonging to PERMITTEE at the end of the term without causing damage to the facilities or Premises. Any damage to the facilities or Premises resulting from removal of PERMITTEE’S personal property or equipment shall be solely the responsibility of PERMITTEE. Any permanent structure built on the Premises shall become the property of TOWN without compensation to PERMITTEE or its agent. If PERMITTEE fails to repair any damage to the Premises as required by this paragraph 8, TOWN may make the repairs at PERMITTEE’S expense.
18. **Inspection.** TOWN shall have the right at all reasonable times to inspect the Premises in the presence of PERMITTEE’S representative and to require PERMITTEE to correct any unsatisfactory conditions relative to the operation and maintenance of the Premises in conformance with the provisions of this Agreement. PERMITTEE will be provided with written notice of any defects or unsatisfactory conditions by TOWN.
19. **Indemnification.** PERMITTEE shall indemnify, defend and hold harmless TOWN, its departments, officers, employees and agents from, for, and against any and all claims, suits, actions, legal proceedings, administrative proceedings, demands, losses or expenses, including reasonable attorney’s fees, which are attributable to any negligent or intentional act, omission or error of PERMITTEE, its employees, agents, subcontractors, volunteers or anyone acting under PERMITTEE’S direction, control or on its behalf.
20. **Insurance.**
21. PERMITTEE shall secure and maintain in force throughout the life of this Agreement, comprehensive general liability insurance with carriers acceptable to TOWN, with a minimum coverage of one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate for personal injury, and one million ($1,000,000) per occurrence/aggregate for property damage.
22. PERMITTEE shall deliver one or more certificates of insurance evidencing coverage as described in this paragraph 11 to TOWN upon execution of this Agreement, prior to using the Premises pursuant to this Agreement. PERMITTEE shall also deliver new certificates of insurance each time the policy(s) is updated. All certificates shall be delivered to the Town of Marana.
23. TOWN shall be named as an additional insured on the commercial general liability insurance policies required by subparagraph (a) above. As an additional insured, TOWN shall be provided coverage for any liability arising out of operations performed in whole or in part by or on behalf of PERMITTEE. PERMITTEE shall deliver additional insured endorsement(s) along with the certificate(s) of insurance required by subparagraph (b) above. The additional insured endorsement form identification number shall also be included within the description box on the certificate of insurance and the applicable policy number(s) shall be included on the endorsement.
24. The certificate(s) shall also stipulate that the insurance afforded PERMITTEE shall be primary insurance and that any insurance carried by TOWN, its agents, officials or employees shall be excess and not contributory insurance to that provided by PERMITTEE. Coverage provided by the PERMITTEE shall be primary insurance with respect to all other available sources.
25. The coverage requirements specified in this paragraph 11 may not be changed or modified except by written agreement signed by the Parties.
26. PERMITTEE shall give TOWN at least 30 calendar days’ written notice prior to a planned cancellation or reduction of any coverage required by this paragraph 11. PERMITTEE shall give TOWN immediate notice of any other cancellation or reduction of any coverage required by this paragraph 11. Cancellation or reduction of any coverage required by this paragraph 11 is grounds for termination of this Agreement by TOWN.
27. **Compliance with Laws.** PERMITTEE shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders without limitation.
28. **Liens.** All equipment leases, debts, loans or encumbrances of PERMITTEE are the sole responsibility of PERMITTEE and are subordinate to any ownership interest of TOWN. TOWN will not recognize any claims or liens placed upon the facilities or Premises as a result of any default by PERMITTEE.
29. **Law to Govern.** This Agreement will be governed by the laws of the State of Arizona, statutory and decisional, both as to interpretation and performance. All Parties consent to personal jurisdiction in Arizona, and venue for any action to enforce this Agreement shall be in Tucson, Arizona.
30. **Mediation.** If there is a dispute between the Parties arising from the interpretation or enforcement of this Agreement, the Parties agree that they shall first attempt to resolve the dispute through mediation prior to filing a lawsuit. If arbitration fails to resolve the dispute and either Party brings an action to interpret this Agreement or to enforce any right which such Party may have hereunder, or in the event an appeal is taken from any judgment or decree of a trial court, the Party ultimately prevailing in such action will be entitled to receive from the other Party its costs and reasonable attorney’s fees incurred, in an amount to be determined by the court in which such action is brought.
31. **Severability.** If any provision of this Agreement is declared illegal, void or unenforceable, the remaining provisions will not be affected and will remain in full force and effect.
32. **Right to Require Performance.** The failure of either Party at any time to require performance by the other Party of any provisions of this Agreement will in no way affect the right of that Party thereafter to enforce the same. No waiver by either Party of any breach of any of the provisions of this Agreement will be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any other provision. The acceptance by either Party of any sum less than may be due and owing to it at any time shall not be construed as an accord and satisfaction of any amount outstanding.
33. **Headings.** The headings used herein are for convenience only and are not to be construed as part of this Agreement.
34. **Nondiscrimination.** Neither PERMITTEE nor TOWN will, in the performance of this Agreement, discriminate or knowingly permit discrimination against any person on account of race, sex, handicap, age, color, national origin, political or religious opinion or affiliation.
35. **Authority to Execute Agreement**. The individuals executing this Agreement hereby represent that they have full right, power, and authority to execute this Agreement on behalf of their respective Parties.
36. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511 relating to conflicts of interest.
37. **Completeness of Agreement.** This Agreement contains all the terms and conditions of the contract between the Parties and any alterations or variations of the terms of this Agreement shall be invalid unless made in writing and signed by the Parties to this Agreement. There are no other understandings, representations or agreements, written or oral, not incorporated herein.
38. **Termination.** If, in the judgment of TOWN, PERMITTEE does not perform in accordance with the conditions of this Agreement or if PERMITTEE is in default of any provision of this Agreement, TOWN shall give PERMITTEE written notice specifying the nature of the nonperformance or default. If, after receipt of such written notice, PERMITTEE fails to diligently pursue rectification or correction of said nonperformance or breach, TOWN may terminate this Agreement by giving thirty (30) days written notice prior to the effective date of termination.
39. **Notices.** Any notice of communication required or permitted to be given pursuant to this Agreement shall be given in writing and shall be served by registered or certified United States mail upon either Party. When served by registered mail, service shall be deemed conclusively made forty-eight (48) hours after posting same in the Unites States mail, postage prepaid, addressed to the Party to whom such notice is to be given as hereinafter provided.

To Town: Parks and Recreation Director

TOWN OF MARANA

13251 North Lon Adams Road

Marana, Arizona 85653

With a COPY to: Town Attorney

11555 W. Civic Center Dr.

Marana, Az. 85653

To PERMITTEE: Organization Info

[**signature page follows**]

In witness whereof, the Parties have executed this Agreement as of the last date set forth below their respective signatures.

Town:

Town of Marana, an Arizona municipal corporation

By:

Jim Conroy,

Parks and Recreation Director

Date:

Permittee:

Organization Name. an Arizona non-profit corporation

By:

League President

Date:

Approved as to Form:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy Town Attorney