

## **PARK USE AGREEMENT – SWANSON PARK**

Stateline Fastpitch Softball, Inc  
January 1, 2018 – December 31, 2020

**LIMITED LICENSE GRANTED:** For the duration of this agreement, and subject to its terms and conditions, the Village of Roscoe (“Village”) grants Stateline Fastpitch Softball, Inc. having its main office at PO Box 525 Roscoe, Illinois 61073, Roscoe, Illinois, Winnebago County, Illinois, an Illinois not-for-profit corporation (hereinafter “Licensee”), the limited license to conduct the following Authorized Activities:

- 1) Exclusive operation of youth softball practices and games for, and as, Stateline Fastpitch Softball, Inc., and the operation of softball practices and games of Third-Party Authorized Users as specifically identified in this agreement (“Events”), at the Village’s Swanson Park located at 5444 Swanson Rd, Roscoe, Illinois 61073.
- 2) Exclusive use and operation of the concession facility located within the park.
- 3) Authority to operate or host youth softball tournaments at the Park, which shall specifically include the hosting of youth softball tournaments in which for-profit teams are, or may be, participants.
- 4) Use of the Premises at such reasonable times needed by Licensee to maintain the softball diamonds and fields for play and cleaning of the Premises after play.

### **ARTICLE I TERM OF AGREEMENT**

- A. Term. The initial term of this Agreement shall commence on January 1, 2018 (the “Date of Commencement”) and shall expire after a period of three (3) years, through and including December 31, 2020 (“Date of Expiration”), unless this Agreement is extended or earlier terminated as provided herein.
- B. Extension. At least 90 days prior to the first anniversary date of the agreement (no later than October 2, 2018), and annually thereafter (no later than October 2 of any given year) and with not more than one request per year, the Licensee may submit to the Village a written request for extension of the Agreement. The Village shall review said request, and at its sole discretion, may agree extend, or may deny to extend the term of the agreement as follows:
  1. Should the Village agree to extend the term, or should the Village fail to respond to such request by the Anniversary Date of the agreement, a new full three-year term shall commence upon said anniversary date, thereby establishing the new Date of Expiration at three (3) years from the current Anniversary Date.
  2. Should the Village deny a request for extension prior to the initial Date of Expiration or any successive Date of Expiration, the Agreement shall be allowed to

expire upon the Date of Expiration as set forth above, and neither the Village, nor the Licensee, shall have any further rights or obligations under the terms of this agreement, other than those specifically set forth herein.

3. A request for extension as set forth in this section may be submitted subject to the terms set forth herein, prior to any Anniversary date occurring prior to Date of Expiration (or any successive Date of Expiration), regardless of whether such a request has been previously requested or previously denied in a past year.

## **ARTICLE II SCOPE OF USE**

**Scope of Use; License** The limited license granted in this agreement shall extend to the Parks and Facilities owned by the Village of Roscoe (“Premises”), as follows:

A. Swanson Park:

1. *Operating Season:* Licensees use of Swanson Park for the events and activities permitted under the terms of this agreement shall be authorized from March 1 through November 30 of each year this agreement is in effect.
2. *Ball Diamond.* The Licensee shall be allowed use of the ball diamonds, dugouts, bleachers, and the immediately adjacent surrounding public areas during those dates and times used for Authorized Activities, with such locations being more specifically illustrated as set forth in Exhibit “B”.
3. *Parking.* The Licensee shall be allowed the non-exclusive shared use of designated portions of the parking facility located at the Village of Roscoe Public Works Building. Parking at this facility is first come first serve, and availability is subject to public park use. Permissible areas of said parking facility that are available for use under the terms of this agreement are designated and indicated on the illustration attached hereto as Exhibit “C”, and incorporated herein by reference.
4. *Office Facilities.* Licensee shall have the exclusive use of the office space at Swanson Park during the term of this agreement.
5. *Concessions.*
  - a. The Licensee shall be allowed access to, and operation of, the concession related improvements during Licensees authorized events, with such access being exclusive to Licensee.
  - b. Licensee shall be solely responsible for obtaining all appropriate and necessary licenses and permits for the operation of and the sale of any products (food and beverages). Appropriate and necessary permits and

certificates for food services from the Winnebago County Health Department shall be obtained, maintained, and exhibited as required prior to serving customers. Licensee, each year, shall file copies of said permits with the Village prior to the start of Concession Operations.

c. Alcohol shall not be sold or served at any activity covered under this Agreement.

6. *Playground Facility.* Licensee's use of the Swanson Park facilities, does not include exclusive use of, and may not interfere with the public use of, the Swanson Park Playground. The playground shall be open to the general public at all times, free of charge.

B. Hours of Operation.

1. Subject to the terms of this Agreement, Swanson Park is open for use by the Licensee for authorized activities from 8:00 am to 10:00pm each day. All use of the park facilities, including field lighting, shall cease prior to 10:00 pm.

2. Licensee shall cease all concession services no later than 9:30 p.m. so as that licensee may finish cleaning the premises and leave the premises no later than the park closing at 10:00 p.m.

### ARTICLE III

#### PROPERTY TAX, UTILITIES, TRASH, RESTROOM FACILITIES:

A. Property Tax. As a publicly owned, publicly used parcel, Swanson Park has been granted a Property Tax exemption, and the property is not assessed for such on an annual basis.

1. At any time, should a determination be made that Licensee's use of Swanson Park makes the Village ineligible for the Property Tax exemption, Licensee shall assume all responsibility for the payment of said Property Tax assessment.

2. Should such an assessment occur, the Village will notify the Licensee of such, and Licensee shall pay the full amount of the assessed property tax for the Village to hold in escrow. The Village will then be responsible for making said payment directly to the Treasurer of the County of Winnebago.

B. Trash Removal.

1. The Village will provide public trash receptacles, including one (1) full size dumpster to be located at Swanson Park, in which Licensee may deposit waste generated at the site in relation to its use of the Park facility.

2. The Licensee shall be responsible for picking up all trash and litter on the grounds that is generated by their use of the premises, including the emptying of trash receptacles into the dumpsters placed at the facility.
  3. Should Licensee fail to pick up the trash and litter generated by its use of the Park Facilities, Licensee shall be responsible for any costs incurred by the Village in the remediation of the generated refuse, which shall be payable immediately by the Licensee upon presentation by the Village of an itemized invoice of the costs incurred.
  4. The Village will provide for one (1) dumpster pickup at Swanson Park per week. Licensee shall be responsible for charges for dumpster pick-ups, that exceed the one dumpster pickup per week limit, and which are necessitated as a result of Licensees use of the facility.
- C. Utilities. Licensee shall pay for, and be responsible for all costs associated with heat, water, electricity and any and all public utility services for Swanson Park during the term of this Agreement and shall maintain such accounts in its name. Provided however, that if the Village receives utilities without charge for Swanson Park and has not exhausted said free utilities on its other uses, the utilities for Swanson Park shall be included in such free service at no cost to Licensee.
1. Should the Village be eligible for free utilities at Swanson Park, Licensee shall provide all necessary documentation requested by the utility provider, to establish and maintain eligibility for free utilities.
  2. At any time, should a utility provider determine that Licensee's use of Swanson Park, makes the Village ineligible for reduced cost, or free utility services, Licensee shall assume all responsibility for the establishment and payment of utility service at Swanson Park, as set forth above.
- D. Restroom Facilities. Licensee is permitted to use the public restroom facilities at Swanson Park during its authorized use of the Park. However, any time the facilities are open for use by Licensee, the Licensee shall also allow the general public full use of the restroom facilities at no cost or charge to such public users.

#### **ARTICLE IV SCHEDULING & APPROVAL OF EVENTS**

- A. Scheduling Procedures. Licensee's shall have exclusive use of Swanson Park during the term of this agreement and shall be allowed to schedule authorized events subject to the terms of this agreement, and any applicable provisions of the Village of Roscoe Code of

Ordinances, including, but not limited to, provisions requiring the issuance of special events permits.

B. Third Party Authorized Park Users. This agreement specifically contemplates use of Swanson Park by not-for-profit, recreational youth sporting teams. Therefore, in addition to Licensee's authorized use of the Park, Licensee's scheduling of Swanson Park for events and activities of third parties, when occurring under the auspices of this agreement, shall be limited to the following organizations:

1. Hononegah High School (District 207)
2. Harlem High School (District 122)
3. Rock Valley College (District 511)
4. South Beloit High School (District 320)

#### **ARTICLE V ANNUAL DONATION & CONTRIBUTION**

- A. Use Fee. Licensee shall pay to the Village an annual contribution in the sum of \$3,500.
- B. Payment of said sum shall be made annually on or before March 31 of each year this agreement is in effect.

#### **ARTICLE VI MAINTENANCE AND REPAIR**

- A. Licensee's Responsibilities:
1. Licensee shall, during the term of this Agreement, and at its own expense, keep the premises and equipment in a clean and sanitary condition at all times.
  2. Licensee shall be responsible for all mowing and field maintenance.
  3. Licensee shall keep the following park areas and fixtures in good condition and shall repair the same promptly when made necessary by any act or negligence of Licensee, Licensee's guests, agents, or invitees, except as otherwise provided herein.
    - a. Ball diamonds and related improvements
    - b. Outfield Fences.
    - c. Bleachers.
    - d. Cost of the replacement of the lamps installed in field lighting fixtures shall be the responsibility of Licensee.
    - e. Routine maintenance of concession facilities.

4. Should Licensee refuse or neglect to complete such necessary repairs promptly and adequately, the Village may, but shall not be required to, make or complete the necessary repairs and Licensee shall reimburse the Village for the cost of the repairs.
  5. Upon completion of the operating season, Licensee shall return the premises to the Village in the same condition as when Licensee originally commenced their use, reasonable wear and tear expected. Any of the Village's equipment used by Licensee shall be cleaned and maintained by Licensee. Routine repairs to said equipment shall be the responsibility of Licensee.
  6. Licensee shall not make any alterations on or additions to any facility without first procuring the written approval of the Village Board of Trustees. The Village shall respond to a request by Licensee to make alterations or additions within 21 days after a request is made, and the failure of the Village to respond to such a request, in the allotted time shall be treated as a denial of said request.
  7. Existing Village owned equipment in concession building including freezers and refrigerators are available for Licensee's use, in as is condition. In the event of equipment failure, or should such equipment not be up to the required standards of the Licensee, the Licensee may request that the Village remove said equipment and Licensee may replace such equipment subject to the terms of this agreement, at the sole cost of the Licensee. Any equipment purchased or replaced by Licensee as provided for in this paragraph, shall remain the property of Licensee, and Licensee shall assume all responsibility for the maintenance and operation of such equipment.
- B. Village Responsibilities: As part of its regular maintenance of Swanson Park for public use and enjoyment, the Village will maintain the following:
1. Field lighting fixtures, including wiring, electric ballasts, electronic components, and structural elements (but not including light bulbs or lamps).
  2. Replacement of mechanical, electric and plumbing at the facilities upon the non-reparable failure of the same.
- C. Each party shall be responsible for all material and labor costs associated with their agreed upon duties as set forth in the preceding paragraphs.
- D. The selection and use of labor shall comply with all State and Local ordinances, laws and regulation, including, but not limited to, the Illinois Prevailing Wage Act.
- E. The selection and installation of all fixtures and lamps shall comply with all local electrical regulations and codes, and shall be approved by the Village prior to their installation or use.

**ARTICLE VII  
ADVERTISING & SIGNAGE**

- A. Approval of Signage. Licensee shall have the right to erect advertising signage upon the ball diamond outfield fences, and at such other locations at Swanson Park as may be approved by the Village, subject to the following conditions:
1. Licensee shall obtain Village approval prior to erecting any signage. The Village shall act on a request for signage within two weeks of receipt of such request provided that Licensee's request is submitted not less than one week prior to the next Village Board meeting. Should the Village fail to approve, deny, or otherwise act upon a properly submitted request within the two-week period, the request shall be considered approved.
  2. All signage shall be of an appropriate subject matter, and nature for an intended viewing audience consisting of children and families.
  3. Signage containing subject matter, which at the Village's sole discretion is not appropriate for viewing by children and families, or which is adult themed in nature, including, but not limited to, advertisements of alcohol, or tobacco products, shall be denied.

**ARTICLE VIII  
INSURANCE**

- A. Required Insurance. The Licensee, for the term of this agreement, shall also carry, in its name, a comprehensive general liability insurance policy with combined policy limit of not less than \$1,000,000.00 per person and per occurrence, and a comprehensive automobile liability policy covering its operations, with combined policy limits of not less than \$1,000,000.00 per person and occurrence.
- B. All policies shall name the Village as an additional insured and shall be reasonably calculated protect the Licensee and the Village from any liability, loss, damage or claims of such liability, loss or damage resulting, or claimed to have resulted from the operations of the Licensee pursuant to this License Agreement.
- C. Licensee shall deliver to the Village no later than March 31 of each year this agreement is in effect (or upon any change, amendment or modification of any such policy) a certificate of insurance issued by Licensee's insurance carrier(s) which identifies the Village as an additional insured, and the coverages in effect.
- D. Failure to maintain the required coverage, or to provide the Village with the specified documents, at the times, and under the terms set forth in this Section, shall be considered a breach of this Agreement.

**ARTICLE IX  
INDEMNIFICATION**

- A. Licensee shall indemnify and hold harmless the Village, and its elected officials, assigns, officers, agents, and employees from and against all liabilities, losses, damages, costs, expenses, actions, claims and demands whatsoever, including reasonable attorney's fees, suffered by or asserted against the other party which result directly or indirectly from any intentional, negligent, willful, reckless or wrongful act or omission of the Licensee, its employees, representatives or agents, users, participants, or third party users under the Agreement, or from any breach of its representations and warranties herein, provided that, upon receiving notice or knowledge or any claim, event or loss for which indemnity is sought hereunder, the indemnified party shall tender the matter to the defending party and cooperate with its defenses as that party may reasonable request, and permit the defending party to defend, try, settle, or appeal such matter as the defending party shall determine. After tender and acceptance of defense have occurred, the indemnitor shall not be responsible for further defense costs or further attorney's fees. These obligations shall not be construed as having the effect of waiving any immunity from civil liability which the Village may enjoy under the Illinois Local Government and Government Officials Tort Immunity Act, or similar legislation as now exists or may be amended in the future. Specifically, the Village shall not be required by this provision to indemnify Licensee for any claims, demands, or liabilities as to which the Village would enjoy local governmental immunity had it acted alone rather than in concert with Licensee.

**ARTICLE X  
SCOPE OF VILLAGE INVOLVEMENT**

- A. The Licensee acknowledges and agrees that this document does not constitute a contract for services between the Village and Licensee, and that the Village grants Licensee solely a license to be on and use the Premises for authorized uses.
- B. Licensee acknowledges that the granting of this License does not create a partnership or other joint venture between Licensee and Village, and that all debts and obligations created by Licensee's use of Village Facilities are the sole responsibility of Licensee.
- C. Licensee acknowledges that the granting of this License does not create, nor should it be construed as, a Lease or any other property right.
- D. The Licensee further acknowledges that neither the Village or its elected officials have entered into any agreement, written or oral, with the Licensee for work performed or to be performed on the Premises, including any work or supporting activities for the authorized activities and that the Licensee will not hold the Village responsible or liable for any costs associated with such work or work contracted for by third parties. ANY AGREEMENT FOR SERVICES WITH THE VILLAGE OF ROSCOE MUST BE IN WRITING AND AUTHORIZED BY VILLAGE RESOLUTION.



- E. Licensee shall be responsible for the hiring of its staff and shall be solely responsible for the paying of all salaries and taxes related thereto of its staff. In no way shall the staff or employees of Licensee be considered employees or staff of the Village.

**ARTICLE XI**  
**ANNUAL SUBMITTAL OF ORGANIZATION INFORMATION**

- A. On or before March 31 each year this Agreement remains in effect, or upon request of the Village, or upon any change or amendment to the information contained therein, Licensee shall provide to the Village the following documents relating to Licensee's corporate organization:
  - 1. The name, address, and corporate registration number of the legal entity that is the Licensee.
  - 2. The name, address, and phone number for each of Licensee's Officers and Board of Directors.
  - 3. The name, address, and phone number of any individual who has been provided by Licensee, keys or other means of access to the Facility.
  - 4. If organization is Charitable, a copy of its IRS Form 990 and its Charitable Organization Annual Report on file with the Illinois Attorney General.
  - 5. A corporate resolution designating the Licensee's primary point of contact, if the primary point of contact is other than the organization's president.
- B. Failure to provide the Village with the documents as required by this Section shall be considered a breach of this Agreement.
- C. The not-for-profit and charitable status of the Licensee shall be considered material to this agreement. Failure to maintain, and keep in good standing, such status with the State of Illinois or any other regulatory entity, shall be considered a breach of this agreement, and cause for its termination.

**ARTICLE XII**  
**DEFAULT**

In the event that either party shall fail to abide by any of the terms and conditions of this Agreement, the non-defaulting party may give the other party written notice of the breach or breaches. Such notice shall be personally delivered or mailed by first class mail, postage prepaid to each party at the following addresses:

If to the Village:

Village Administrator  
Village of Roscoe  
10631 Main Street, Box 283  
Roscoe, IL 61073

With a copy to:

Village President  
Village of Roscoe  
10631 Main Street, Box 283  
Roscoe, IL 61073

If to Licensee:

Stateline Fastpitch Softball, Inc.  
PO Box 525  
Roscoe, IL 61073

In the event of such written notice, the defaulting party shall be allowed 15 days from receipt of such notice to cure the breach or breaches specified therein or, if the breach cannot be cured in 15 days, but is curable with 45 days, and the breaching party commences the cure within said 15 days and shall diligently work to cure said breach without delay and does actually cure such breach within 45 days of the notice. If the defaulting party does not timely so cure the specified breaches, the non-defaulting party may declare this Agreement terminated and pursue all such remedies as are available to it in law or equity, including without limitation injunctive relief, as appropriate.

**ARTICLE XIII  
MISCELLANEOUS PROVISIONS**

- A. Non-Assignable. This Agreement is not transferable and is not assignable.
- B. Applicable Laws. Licensee shall observe all laws, ordinances and regulations applicable to their operation hereunder and shall promptly pay, when due, all sales, employment and other taxes properly levied upon it or its operation.
- C. Force Majeure. No party to this Agreement shall be liable for damages for its failure to perform due to contingencies beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, explosion, accidents, war, public insurrection, public disorders, sabotage, lockouts, labor disputes, labor shortages, strikes, riots or acts of God.
- D. Waiver. Failure or delay on the part of either party to exercise a right, power, privilege or remedy under this Agreement shall not constitute a waiver thereof. No modification or waiver by either party of any provision shall be deemed to have been made unless in writing.
- E. Severability. The provisions of this Agreement shall be severable and the invalidity of any provision, or portion thereof, shall not affect the enforceability of the remaining provisions.
- F. Authorized Signatures/Effectiveness. The persons signing this Agreement shall have all legal authority and power in their respective capacities to bind Licensee and the Village, and the Agreement shall not be effective until fully executed and delivered to all parties.
- G. Entire Agreement and Amendments. This Agreement constitutes the entire understanding between the parties and supersedes all previous agreements or negotiations on the subject matter herein, whether written or oral, and shall not be modified or amended except by written agreement duly executed by the parties.
- H. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.
- I. No Joint Venture or Partnership: Licensee and the Village acknowledge that this Agreement does not create a partnership or other joint venture between Licensee and Village, and that all debts and obligations created by Licensee as part of said Agreement or the uses arises therefrom are the sole responsibility of Licensee.

[SIGNATURE PAGE TO FOLLOW]

**LICENSEE:**

**Stateline Fastpitch Softball, Inc.**  
an Illinois not-for-profit corporation

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LICENSOR:**

**The Village of Roscoe, Illinois**  
an Illinois municipal corporation

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

Name: David A. Krienke

Title: Village President

Attest: \_\_\_\_\_

Name: Lori Taylor

Title: Village Clerk

Approved June 19, 2018  
[Resolution: 2018-R29]