

**LICENSE AGREEMENT BETWEEN
THE PETERSBURG BOROUGH
AND
THE PETERSBURG LITTLE LEAGUE**

This **AGREEMENT** ("Agreement"), is made effective this 7th day of March, 2016, between the Petersburg **Borough**, of the State of Alaska, hereinafter referred to as the "Borough," and **PETERSBURG LITTLE LEAGUE**, with an address of P.O. Box 1577, Petersburg, Alaska 99833, hereinafter referred to as the "League."

WHEREAS, the League provides recreational services on a portion of that certain property, owned by the Borough, containing 9.375 acres as shown on the plat attached hereto entitled "Mort Fryer Ball Fields" (or the "ball fields") appropriate to the needs of the Petersburg youth community, and including and recognizing concession rights, which are a part of ensuring the ability of the League to deliver valuable services to and for the benefit of Petersburg youth; and

WHEREAS, the League, by its management, use of its funds, and provision of maintenance services to the ball fields, would provide a service to the youth of Petersburg in the truest sense of community partnership; therefore, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **GRANT OF PERMISSION AND DESCRIPTION OF LICENSED PROPERTY.** The Borough grants permission to the League, and the League so accepts, under the terms and conditions set forth in this Agreement, permission to enter on and into that portion of real property and improvements described below, all located on Lot

1 of Tract B, U.S. Survey No. 1168 (ASLS No. 80-35) and collectively referred to as the "licensed property":

- Concession Stand/bathrooms/storage (including all interior fixtures)
- The old Concession stand/storage (including all interior fixtures)
- The Blue, Green, Yellow, and Red Ball fields including all dugouts, fencing and covered bleacher areas, score boards, etc.
- The old and new batting cages
- Portable storage units
- All pathways between and areas directly adjacent to the fields, storage, batting cages, and the concession stands

The Borough grants to the League, and the League agrees to undertake, the exclusive right, privilege and obligation to use, manage, operate and maintain the licensed property, including the ball fields, the batting cages, the concession facilities, the utilities for the facilities, any storage room adjacent to any concession area, the auxiliary storage units, and referenced pathways and adjacent areas.

2. **TERM.** This Agreement shall be in effect from March 7, 2016 to December 31, 2018.

3. **PURPOSES.** The licensed property shall be used by the League for approved recreational purposes only. Any determination as to whether a use constitutes an approved recreational purpose shall be determined by the Borough Director of Parks and Recreation.

4. **PAYMENT TO BOROUGH.** The League agrees to pay to the Borough \$1 as a license payment. The fee shall be made payable to the "Petersburg Borough" and delivered to the Finance Office at 12 south Nordic, Petersburg, AK, 99833, by March 8, 2016.

5. **OBSERVATIONS.** The Borough's duly authorized agent, the Director or his designee, shall have the right to observe the League's operations at any reasonable time and as often as Borough deems necessary.

6. **MAINTENANCE AND REPAIR RESPONSIBILITIES OF THE LEAGUE; DAMAGE TO LICENSED PROPERTY OR EQUIPMENT.** The League shall be solely responsible, at its own cost and expense, for the maintenance of the licensed property, including all grounds, the ball fields and any physical improvements on the subject property existing as of the effective date of this Agreement and those subsequently constructed or placed on the licensed property by the League, and specifically including the concession facilities, bathrooms and storage rooms. The League is required to keep the licensed property in a continuous state of good maintenance and repair, at its own expense, and shall, at the final expiration or termination of this Agreement, ensure that the property is returned to the Borough in the same condition as of the date of this Agreement, normal wear and tear excepted.

Other borough-owned facilities are located on Lot 1 of Tract B, U.S. Survey No. 1168, specifically the playground, the playing surface under the playground, the planters, the parking lot, a garbage dumpster, three storage containers in the parking lot and the ice skating rink. It is understood between the parties that these facilities are not included in the licensed property and the League is not responsible for the maintenance, repair and upkeep of these facilities.

Notwithstanding any language to the contrary herein, should the licensed property, or the equipment and gear delivered under paragraph 7 below, be damaged

or stolen, and the damage or theft not be caused by, or arise or result, in whole or in part, in any way from, the fault or negligence, or contributory fault or negligence, of the League, the League's repair or replacement liability shall be limited to Five Hundred Dollars (\$500) per occurrence, and Two Thousand Dollars (\$2000) per calendar year. The League may then approach the Borough to request additional assistance for the repair or replacement of the damaged or stolen equipment or gear delivered under paragraph 7 or to the licensed property.

7. **EQUIPMENT AND GEAR.** As part of this Agreement, certain borough-owned equipment and gear is being delivered to the League, as follows:

- All extra bases
- The roller and drags for the fields
- Portable fencing
- The chalking machines – One new chalk machine and one chalk machine in need of new wheels but otherwise in good condition
- Excess chalk in storage
- Any extra fence posts or fence covers
- Any rakes, or equipment specialized for maintaining the ball field

The League is required to keep this equipment and gear in a continuous state of good maintenance and repair, at its own expense, and shall, at the final expiration or termination of this Agreement, ensure that this equipment and gear is returned to the Borough in the same condition as of the date of this Agreement, normal wear and tear excepted. The Borough shall not be under any obligation to furnish any other equipment, including equipment required for the concession operations.

8. **UTILITY EXPENSES.** Subject to appropriation by the Borough Assembly, the Borough will provide \$3000 annually to the League to cover utility expenses

(electrical, water, and sewer) on the licensed property. Said appropriated payment shall be tendered to the League on or about April 1st of each year. Any annual utility expenses above \$3000 will be the responsibility of the League.

9. **ADDITIONAL IMPROVEMENTS.** The League agrees to be responsible, at its own cost and expense, for any additional construction, and the maintenance and repair, of any building or structure so constructed on the licensed property, with all plans for any such building or structure receiving prior approval in writing by the Director. It is expressly understood and agreed that any building or structure and all physical improvements or additions made by the League or at its direction, including fixtures located therein, shall be the property of, and solely owned by, the Borough from the time of completion or installation. The League shall keep the licensed property free and clear of any and all liens for labor performed or materials or services furnished at the instance or request of the League or anyone claiming under the League.

10. **INDEMNIFICATION AND INSURANCE.**

A. The League shall indemnify, defend and hold harmless the Borough, and all employees, officers and agents of the Borough, from and against any and all claims, demands and liability for damages, costs, losses, and expenses resulting from, arising out of, or in any way connected with or relating to, the licensed property or this Agreement, including but not limited to the use of the licensed property by the League, or the League's employees, officers, agents, clients, invitees, and guests.

B. Notwithstanding the League's obligation of indemnification, the League, at its expense, shall take out and keep in full force and effect during the term of this

Agreement, with a company or companies authorized to do business in the state of Alaska, at its sole cost, i) required workers compensation insurance, and ii) COMPREHENSIVE GENERAL LIABILITY INSURANCE, including products liability insurance, insuring the League and the Borough in the amount of One Million Dollars (\$1,000,000.00) combined single limit for the death of or injury to any person or persons, against liability from any and all claims, actions and suits that may be asserted or brought against the League, the League's agents and employees and/or Borough, the Borough's officers, employees and agents for any matter resulting from, arising out of, or in any way connected with or relating to, to the licensed property or activities conducted under this Agreement.

C. Evidence of such insurance naming the Borough, and its officers, employees and agents as additional insureds shall first be approved by the Borough Attorney and filed with the Director within fifteen (15) days after the commencement of this Agreement and annually thereafter. The workers compensation insurer shall waive all rights of subrogation against the Borough. The policies shall require at least 30 days notice to the Borough of cancellation.

11. **HEALTH CONDITIONS.** The League will keep clean the licensed property, including all areas adjacent to the concession stand. The League will provide and empty trash receptacles approved by the Borough. The League shall comply with all applicable State statutes and Borough ordinances relating to food and food establishments and all applicable requirements of the State and Borough health authorities.

12. **LICENSES AND TAXES.** The League shall obtain and keep in full force and effect, at its own cost and expense, all necessary licenses and shall pay all taxes assessed against said concession operation, and any taxes assessed against the value of the League's interest hereunder.

13. **DOMESTIC CORPORATION.** The League, by executing this Agreement, certifies that it is authorized to transact business in Alaska. The League further certifies that it will maintain such status during the term of this Agreement. This Agreement is subject to termination, at the option of the Borough if, at the time the League entered into this Agreement, it was not authorized to transact business in Alaska; or, having qualified to enter into this Agreement fails to maintain such status during its term.

14. **ASSIGNMENT AND SUBLICENSING.** The League shall not assign this Agreement, or any part thereof, or sublicense it, without first obtaining the written permission of the Director. Any consent by the Director to any act of assignment or sublicensing shall be held to apply only to the specific transaction thereby authorized, and shall not release the League from liability under this Agreement; the League shall ensure that its insurance policies cover the activities of any approved sublicensee (and provide the Borough the coverage required under paragraph 10), or that alternate insurance meeting the requirements of paragraph 10 is obtained by the sublicensee. Any consent to an assignment or sublicense shall not be construed as a waiver of the duty of the League or any assignees or sublicenses of the League to obtain from the Director his consent to any other assignment or sublicense, or as modifying or limiting

the rights of Borough under the foregoing covenant by the League not to assign or sublicense without first obtaining the written permission of the Director for it to do so. Any attempted assignment or sublicense made without the required consent shall be voidable, at the option of the Borough.

The following entities are approved by the Borough as acceptable sublicenses and the League is hereby granted permission to enter into agreements with them to further their programs and events: The Chamber of Commerce, The Little Norway Softball tournament, and the Petersburg School District. Any sublicense agreement must be in writing, and a copy of the sublicense agreement must be provided to the Borough.

15. **TERMINATION.**

A. In the event of breach or default by the League as to any of the terms of this Agreement, the Borough may terminate the Agreement by giving the League thirty (30) days written notice of such termination. Failure of the League to operate the concession or the ball fields constitutes a breach or default hereunder. The notice period shall not apply in the event that the breach or default results in a health or safety hazard, or if the default is a failure by the League to obtain the requisite insurance.

B. Either party may terminate this Agreement, without breach or default, by providing the other party one hundred twenty (120) days written notice of such termination.

C. The parties agree that cancellation of this Agreement for any reason shall not affect the Borough's rights, title and interest as owner of the building and equipment.

16. **POSSESSION OF PREMISES UPON DEFAULT OR EXPIRATION.**

A. The parties hereto agree that this Agreement is made upon condition that if the League shall breach any of the covenants contained herein and the breach continues past any notice period, or if the League shall be declared bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors, the Borough may immediately or at any time thereafter, without demand or notice, enter into and upon the licensed premises and repossess the same. The Borough may expel the League and remove the League's effects, if any, and change the entry processes to prevent the League's re-entry. Such entry by the Borough shall not constitute a trespass or forcible entry or detainer nor shall it cause a forfeiture of any other remedy which otherwise might be used for breach of any covenant mentioned herein.

B. Upon expiration or other termination of this Agreement, the League is obligated to quietly and peaceably surrender the licensed property in the same condition as existed upon execution of this Agreement, normal wear and tear excepted, and it shall remove all equipment and other items owned by the League from the property; if the League shall fail to do so, the Borough shall have the right to make such removal at the League's expense, or if the Borough shall so elect, it shall have the right to take possession of and appropriate to itself without payment therefore any property

of the League, or anyone claiming under the League, then remaining on the licensed property.

17. **NOTICE.** Notice by the League shall be given to the Borough at the office of the Director, Community Center, 500 N. 3rd St. Petersburg AK, 99833. Notice shall be given to the League at P.O. Box 1577, Petersburg AK, 99833.

18. **GOVERNING LAW; CONSTRUCTION.**

A. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Alaska.

B. Both parties to this Agreement have had the opportunity to consult with counsel of their choice and agree that any rule of judicial construction which construes the terms of the instrument against the draftsman shall not apply.

19. **ENTIRE AGREEMENT/COUNTERPARTS.** This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. This Agreement may be executed in counterparts and such counterparts exchanged by facsimile or scanned/email transmission. Each such counterpart shall be deemed an original but all counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed and sealed this Agreement as of the day and year first above written.

Petersburg Borough

By: _____
Stephen Giesbrecht, Borough Manager

Dated: _____

Attest:

Debra K. Thompson, Borough Clerk

PETERSBURG LITTLE LEAGUE

By: _____

Title: _____

Dated: _____