

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "**Agreement**") is made as of this 1 day of August, 2021 (the "**Effective Date**") by and between PBR Tournaments NY, LLC, an Indiana limited liability company ("PBRT"), and the Town of Cortlandville, a municipal corporation organized under the laws of the State of New York, with offices located at 3577 Terrace Road, Cortland, NY 13045 ("**Town**"). **Town** and **PBRT** may be referred to herein collectively as the "**Parties**" and individually as a "**Party**."

RECITALS:

WHEREAS, Town is the owner of certain real property located at 3111 Bryne Hollow Crossing in the Town of Cortlandville, County of Cortland and state of New York and identified as Cortland County Tax Map No. 105.00-04-02.200." (the "**Real Property**");

WHEREAS, the members of PBRT have experience and expertise in the management and operation of sports events and facilities; and

WHEREAS, the Parties have a mutual and shared goal of developing, managing and maintaining the Real Property and the facilities, fixtures and other improvements to be built thereon.

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. DEVELOPMENT; CONSTRUCTION; COMPLETION

1.01 Development. Town shall, on or before August 31, 2021, and at its sole expense, cause plans, drawings, technical specifications, agreements and other contract documents (all of these documents and any revisions thereto the "**Plans**") to be prepared for the development and construction of those certain facilities, fixtures and improvements located at and on the Real Property (collectively, together with the Real Property, the "**Sports Campus**");

- (a) Four (4), (two of which are already built), ball diamonds all of which will be lighted and have artificial turf in the fields, identified more specifically in Exhibit A ("**Diamonds**");
- (b) food, beverage and other merchandise vendor facilities;
- (c) restroom facilities;
- (d) one or more buildings to (i) host tournament operations/umpires, (ii) serve as an office and (iii) maintenance facility;
- (e) public safety facilities, if needed;
- (f) asphalt or other hard surface parking areas, overflow parking areas (which consist of accessible grass areas) and pedestrian trails with appropriate lighting and signage;
- (g) trash and recycling receptacles;

- (h) bicycle racks, if needed;
- (i) a programmable irrigation system for the irrigation of the Fields and the Diamonds (the “**Irrigation System**”);
- (j) a maintenance facility to be used to store equipment and house maintenance employees; and
- (k) adequate means of ingress and egress to and from the Sports Campus.

The location and scope of such improvements shall be set forth in the Plans.

1.02 Communications Regarding Plans. A preliminary site plan of the Sports Campus is attached hereto as Exhibit A (the “**Site Plan**”). Town shall communicate with PBRT regarding the Plans and any changes to the Plans and PBRT shall have the right to review and request changes to the Plans prior to their final approval by Town; provided, however, that Town shall have no obligation to accept such changes and shall have final ultimate authority to approve the Plans. PBRT shall confirm that the dimensions of the Diamonds are consistent with applicable standards. If the final Plans approved by Town (or any material modification to the Plans) are materially inconsistent with the Site Plan, PBRT shall have the option to provide Town within thirty (30) days of (i) Town’s approval of the Plans or (ii) modification of the approved Plans, to terminate this Agreement. For purposes of this Section, “**Materially Inconsistent**” shall mean a reduction in the number of Diamonds, the size or quality of the Diamonds, or any other modification that would have a material adverse impact PBRT’s ability to profitably manage the Sports Complex in PBRT’s opinion.

1.03 Construction. Town shall use its best efforts to complete construction of the Sports Campus in accordance with the Plans on or before May 31, 2022 (“**Outside Completion Date**”); provided, however, that Town may extend the Outside Completion Date by providing PBRT with a new Outside Completion Date on or before November 1, 2021 (“**Adjustment Date**”). The Parties hereby acknowledge that it is critical, and in the best interest of both Parties, to meet the Outside Completion Date. If the Final Completion Date occurs between June 1, 2022 and December 31, 2022 (“**Late Delivery Period**”), then in lieu of paying the Monthly License Fee (as hereinafter defined in Section 4.08), PBRT shall pay field rental of One Hundred Fifty Dollars (\$150.00) per game for the remainder of 2022 and commencing January 1, 2023, PBRT shall begin paying the Monthly License Fee provided that if the Final Completion Date occurs during the Late Delivery Period and (i) the Town did not provide PBRT on or before the Adjustment Date with a new Final Completion Date or (ii) the Final Completion Date does not occur until after the Outside Completion Date, then the field rental shall be Seventy-Five Dollars (\$75.00) per game for the remainder of the 2022 calendar year. For the avoidance of doubt, the first payment of the Monthly License Fee or field rental fee shall not commence until the first day of the month after the Final Completion Date.

1.04 Communications During Construction. Town shall communicate regularly with PBRT during the construction of the Sports Campus regarding the ongoing status of such construction and will provide PBRT advance written notice of, and the opportunity to attend, all substantive meetings regarding the construction of the Sports Campus between Town personnel and contractors or other stakeholders.

1.05 Completion Stages.

- (a) The Parties shall cooperate in good faith to determine whether any individual Diamond has been completed in accordance with the specifications set forth in the Plans and is in a condition for play. Any Diamond mutually determined by the Parties to satisfy such criteria shall thereafter be deemed to be an “Accepted Field” for purposes of this Agreement.
- (b) The “Initial Completion Date” shall be the date on which the Parties mutually agree that (i) the number of Accepted Fields by PBRT and the requisite infrastructure that is part of the Sports Campus that is necessary to access and maintain the Accepted Fields is sufficient to make use of such Accepted Fields by PBRT feasible, and (ii) the Equipment (as defined herein) applicable to such Accepted Fields has been purchased by Town and provided to PBRT.
- (c) The “Final Completion Date” shall be the date on which the Parties agree that all of the following items have occurred: (i) all of the Diamonds have been determined to be Accepted Fields; (ii) the Irrigation System is fully operational and capable of watering all of the Diamonds; (iii) all of the necessary Equipment has been provided to PBRT and necessary lighting has been installed and is fully operational; (iv) all other parts of the Sports Campus have been completed in accordance with the Plans; and (v) all necessary utility services have been installed and are operational and available for use.

II. TOWN RIGHTS AND OBLIGATIONS

2.01 Initial Equipment Purchase. Town shall, at its sole expense, acquire the equipment and related items to be used by PBRT, as identified in Exhibit B attached hereto (the “Equipment”), by the deadlines set forth on Exhibit B. The Town shall be solely responsible, at its sole expense, to repair and/or replace the Equipment that the PBRT determines is necessary for the operation of the Diamonds in accordance with the standards of other first-class baseball facilities that cater to the travel baseball market such as Grand Park in Westfield, Indiana.

2.02 Capital Improvements. Town shall be solely responsible, at its own expense, for the provision and payment of the items included in Exhibit C attached hereto. In the event Town is required to perform any work under Exhibit C, PBRT shall provide prompt written notice thereof to Town.

2.03 Taxes. All assessed real estate and personal property taxes attributable to the real estate and personal property that is owned by Town within the Sports Campus, if any, shall be the responsibility of Town.

2.04 Sale of Alcoholic Beverages. Town shall have the right, but not the obligation, to sell alcoholic beverages at a mutually agreeable location in the Sports Campus (the “Venue”). Town shall have the right to operate the Venue and shall be entitled to retain all revenues generated at the Venue.

2.05 Retained Rights.

- (a) Town shall retain fee simple title to the Real Property.
- (b) Town shall have the right to enter and view the Sports Campus, including any and all buildings thereon, at any time for the purpose of examining the same and making any necessary repairs.
- (c) Town Management and Programming rights set forth in Section 3.01(b).

III. PBRT RIGHTS AND OBLIGATIONS

3.01 PBRT Programming.

(a) Subject to the reserved programming rights set forth in Section 3.01(b), PBRT shall have the exclusive right and authority to schedule, coordinate and host games, tournaments, competitions, practice sessions, tryouts, camps, clinics, lessons and other events and activities at the Sports Campus ("**PBRT Events**") and operate the Sports Campus. PBRT shall be responsible for developing, scheduling, managing and maintaining the calendar of activities at the Sports Campus. Except as provided in Section 3.01(b), PBRT shall have the sole and exclusive right to (a) manage, operate and otherwise use the Sports Campus, and (b) establish and enforce the terms and conditions under which individuals, entities and other organizations can use the Sports Campus. PBRT shall not use any Diamond until after the Initial Completion Date and then shall use only Accepted Fields. As provided in Section 3.01(b), PBRT will work directly with the Town to ensure local organizations are included in the use of the Sports Complex. Further, PBRT will work with the local organizations to run any events held in conjunction with the Town that do not pertain to baseball. There will be an agreed upon rental fee on these rental events based upon the time of year and dates. Town and PBRT shall share use of the Diamond Sports Maintenance/Office Facility as reflected in the plans as mutually agreed by the Parties.

(b) The Town and PBRT shall work in good faith to identify on or before December 31 of each year during the Term up to eighteen (18) dates and times that the Cortland Crush ("**Crush**") may utilize a Diamond for a home game. In addition, the Town and PBRT shall work together to identify those times that there is neither a PBRT Event nor a Crush home game ("**Open Diamonds**"). The Town will work directly with Cortland High School, Honor High School, and the Cortland Jr. Crush and other little leagues (collectively "**Other Users**") to schedule the use of the Open Diamonds by Other Users. The Town understands that certain PBRT Events will eliminate certain dates from consideration and that PBRT Events take priority over the use of the Diamonds by Other Users. The Town shall (i) establish the rental rate for the use of the Diamonds by the Crush and Other Users and (ii) keep all revenue from such use ("**Other Use Revenue**"). Commencing on the Final Completion Date the Town may elect at any time to

terminate its rights to schedule the use of the Diamonds by the Crush and Other Users under this Section 3.01(b) and the collection of Other Use Revenue ("**Other Use Termination Option**") by providing PBRT with written notice on or before November 1 of each calendar year during the Term. If the Town exercises the Other Use Termination Option, then the Monthly License Fee shall increase by One Thousand Dollars (\$1,000.00) commencing with the Monthly License Fee due in January of the immediately following year.

3.02 Maintenance. From and after the Final Completion Date, including the work set forth in Exhibit C, Town shall, at its own expense keep and maintain the Sports Campus in first class condition, and repair, and shall perform all repairs and maintenance and replacements, in a first-class and good and workmanlike manner. In addition, Town shall be responsible for maintenance, provision and payment of the items included in Exhibit D attached hereto. Such maintenance, repairs and replacements shall include, without limitation, snow removal, any mowing, trimming, fertilizing, watering, repairing sprinkler heads, repairing netting, replacing bulbs in lights, repairing and replacing the turf (including artificial), maintaining scoreboards, and collecting and hauling garbage from restrooms, dugouts, any other garbage receptacles, ponds, parking lots, shrubbery and trees that exist on the perimeter of the park along with the trees throughout the Sports Campus that exist and the exterior of any building that exists within the Sports Campus. If Town fails to meet its maintenance obligations hereunder, PBRT shall have the option to perform such maintenance obligations and offset against the Monthly License Fee the cost it incurs in performing such maintenance obligations plus 15%.

3.03 Utilities. Town will obtain and pay for and will provide all electricity, water, gas, sewer, trash and recycling collection and removal and other utility services required for the Sports Campus, the events and other activities conducted at the Sports Campus.

3.04 Agreements with Third Parties. PBRT shall have the right, but not the obligation, to enter into agreements and understandings regarding the operation, management, maintenance and other uses of all, or any portion of, the Sports Campus.

3.05 Alterations. PBRT shall not make any material alterations, improvements or additions to the Sports Campus without Town's prior written consent in each and every instance, which consent shall not be unreasonably withheld, conditioned or delayed. In the event PBRT desires to make any alterations, improvements or additions, PBRT shall first submit to Town plans therefor and obtain Town's written approval of such plans.

3.06 Compliance with Laws and Permits. All improvements to the Sports Campus reflected in the Plans shall be made by Town in compliance with all applicable laws, rules, building codes and ordinances including the Americans with Disabilities Act (collectively, "**Laws**"). Town shall be responsible for curing any violation of such Laws associated with the improvements to the Sports Campus. PBRT shall obtain all permits necessary to operate the Sports Campus. PBRT shall at all times comply with all Laws pertaining to the operation of the Sports Campus and PBRT's use thereof.

3.07 Escrow Fund. Commencing on the first year anniversary of the Rent Commencement Date and continuing on each annual anniversary thereafter during the Term

(with the exception of the annual anniversary that falls on the last day of the Term) the Town and PBRT shall each deposit \$15,000 (\$30,000 in the aggregate annually) into an escrow account ("**Escrow Account**") maintained by an escrow agent mutually agreeable to the Parties ("**Escrow Agent**") in accordance with an escrow agreement ("**Escrow Agreement**") agreed to by the Parties. The funds held in the escrow agreement ("**Escrowed Funds**") shall be used exclusively to pay for the repair or replacement of the artificial turf on the fields. The Town in good faith and with input from PBRT shall determine when any repairs or replacements to the artificial turf need to be made. The Escrow Agreement will provide that if the Town breaches its maintenance obligations with respect to the artificial turf under Section 3.02 of this Agreement, then PBRT shall have the right to draw on Escrow Funds to reimburse itself for performing such turf maintenance, repair or replacement as provided in Section 3.02.

IV. REVENUE

4.01 Event Revenue. PBRT shall receive all revenues related to all games, tournaments, competitions, practice sessions, and other events and activities at the Sports Campus, including field rentals, team sponsorships, registration fees, attendance fees, gate fees, parking fees and ticket charges with the exception of the Other Use Revenue.

4.02 Food and Beverage Revenue. Town shall receive all revenue from the sale of food and beverages at the Sports Campus (including alcoholic beverages).

4.03 Merchandise Revenue. PBRT shall receive all revenue from its sale of any merchandise at the Sports Campus (including, but not limited to, apparel, sporting goods and other items).

4.04 Naming Rights and Donations. Town shall receive all revenue or donations paid for the right to name the Sports Facility, one or more Diamonds and general donations to the Sports Campus that are not associated with any marketing, business development or advertising campaign. Notwithstanding the above, Town shall not enter into any agreement that restricts PBRT's rights under Section 4.05.

4.05 Marketing Rights. PBRT and Town shall evenly split any revenue (i) paid by any party to display signage, marks or other materials at the Sports Campus (e.g. outfield signage or banners), (ii) all naming rights or other sponsorship concerning any part of the Sports Campus (except the Diamonds and Sports Campus), (iii) any consideration paid by any vendor for exclusivity rights with respect to the Sports Campus, or (iv) any similar amounts paid by any third party with respect to the Sports Campus (collectively, "**Gross Marketing Revenue**") less any direct expenses incurred in capitalizing on these opportunities such as the cost of the banners and installation thereof ("**Marketing Revenue**").

4.06 Hotel Revenue. All revenue or other amounts received by or on behalf of the PBRT or Town from hotels related to competitions, tournaments and other events or activities at the Sports Campus (the "**Hotel Revenue**") shall be retained by the PBRT.

4.07 Payment. In the event that either Party receives payments not consistent with the revenue splits described in this Article IV, it shall make such necessary payment to the other Party within thirty (30) days of becoming aware of such inconsistent payment.

4.08 License Payment. Beginning on the first day of the month after the Final Completion Date ("**Rent Commencement Date**"), PBRT will pay to Town a monthly license fee which is identified in Exhibit D ("**Monthly License Fee**"). The Monthly License Fee will be paid by the 5th of the current month for that month. In the event any fee or other charges payable by PBRT hereunder are not paid within five (5) days after written notice that such amount is past due, such past due payments shall bear interest at the rate of 12% per annum from the date due until paid.

4.9 Records/Reports. PBRT shall maintain accurate records pertaining to all Marketing Revenue received, and such records shall be available for inspection by Town at the Sports Campus during normal business hours. PBRT shall deliver to Town a quarterly statement of reflecting the calculation of the Marketing Revenue together with the Town's share of the Marketing Revenue.

VI. TERM; TERMINATION; RIGHT OF FIRST REFUSAL

6.01 Initial Term. The initial term of this Agreement shall be for a period commencing on the Effective Date and continuing through the close of business on the tenth (10th) anniversary of the Rent Commencement Date (the "**Initial Term**").

6.02 Extended Terms. Provided that this Agreement has not been previously terminated as provided for herein, this Agreement shall be extended under the same terms, covenants and conditions contained herein for up to two additional terms of five (5) years each (each, an "**Extended Term**"), unless written notice is given by PBRT to Town that PBRT does not desire to extend this Agreement and such notice is given at least one hundred eighty (180) days prior to the expiration of the Initial Term or any succeeding Extended Term, as applicable.

6.03 Termination upon Default. This Agreement may be terminated at any time by written notice by either Party in the event the other Party: (a) materially breaches this Agreement and such material breach remains uncured for a period of thirty (30) days following such other Party's receipt of written notice thereof from the terminating Party; provided, however, that if any such breach is of such nature that it reasonably cannot be cured or remedied within such 30-day period, such other Party shall be entitled to a reasonable period of time to cure or remedy such breach, provided such other Party commences the cure or remedy thereof within such 30-day period and thereafter proceeds with diligence to complete such cure or remedy; (b) makes an assignment for the benefit of creditors; (c) is adjudicated bankrupt by a court of competent jurisdiction and such adjudication remains unstayed for a period of ninety (90) days or is consented to by such other Party; (d) files a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts or for any other relief under Title 11 of the United States Code or any successor or other federal or state insolvency law ("**Bankruptcy Law**"); (e) has filed against it an involuntary petition in bankruptcy or seeking reorganization, arrangement, readjustment of its debts or for any other relief under any Bankruptcy Law, which petition is not stayed, vacated or discharged within

ninety (90) days; or (f) applies for or is subject to the appointment of a receiver or trustee for its assets.

6.04 Rights and Obligations Upon Termination. Following the expiration or termination of this Agreement, Town may enter the Sports Campus and take possession of all or any part thereof and PBRT shall surrender the Sports Campus to Town in good condition, ordinary wear and tear excepted. No such entry shall be deemed an acceptance of the surrender of this Agreement or a satisfaction of either Party's obligations hereunder. Following the expiration or termination of this Agreement, PBRT shall have a reasonable period of time to remove all of PBRT's personal property (which in no case shall include Equipment initially provided under Section 2.01 or replaced under Section 3.04) from the Sports Campus. The failure of a Party to exercise any option herein provided on account of any default shall not constitute a waiver of the same or any subsequent default. This Section shall survive the expiration or termination of this Agreement.

VII. LIABILITY AND INSURANCE

7.01 Insurance. Each Party, at its sole expense, shall keep in full force and effect during the term of this Agreement all such insurance as a prudent business operator in such Party's situation would carry, including, in the case of Town, property and casualty insurance with respect to the Sports Campus, which policy shall have a minimum coverage limit of Two Million Dollars (\$2,000,000.00), and, in the case of Town and PBRT, commercial general liability insurance coverage which commercial general liability policy shall include (i) coverage for bodily injury and death, and property damage; (ii) contractual liability coverage insuring the obligations of PBRT under the terms of this Agreement, which policy shall have a minimum limit of coverage of not less than Two Million Dollars (\$2,000,000.00) per occurrence. Any policy maintained by PBRT shall name the Town Indemnified Parties (as defined herein) and any policy maintained by the Town shall name PBRT Indemnified Parties (has hereinafter defined) as an additional insured. Upon a Party's request, the other Party shall provide such Party with proof of the insurance coverage required to be maintained by the other Party pursuant to this Agreement. All such insurance policies shall be written on an "occurrence" basis, issued by one or more companies reasonably acceptable to the other Party, name the other Party as an additional named insured, provide coverage for liability assumed under contract and contain a provision that written notice of cancellation or non-renewal of, or any material change in, any such policy or policies shall be mailed to the other Party at least thirty (30) days in advance of the effective date thereof. Nothing in this Section, however, shall be interpreted to prevent a Party from changing insurance providers, provided any new insurance provider is reasonably acceptable to the other Party.

Town will also maintain liquor liability insurance with the limit of not less than \$2,000,000.00. If written on a separate policy from the commercial general liability policy, such policy shall name the PBRT (and any of its affiliates, subsidiaries, successors and assigns designated by PBRT) as an additional insured.

7.02 Limitations on Liability. The Town Indemnified Parties shall not be liable for damage to any person or property to the extent due to any accident occurring within the Sports Campus arising from the negligence or intentional conduct of PBRT, its employees or agents. PBRT shall not be liable for damage to any person or property to the extent due to the design, construction, or maintenance of the Sports Campus or to the extent due to any accident occurring within the Sports Campus arising from the gross negligence of Town, its employees or agents. This section shall survive the expiration or termination of this Agreement.

7.03 Indemnification of Town by the PBRT. PBRT shall indemnify, defend, and hold harmless Town and its directors, managers, officers, employees, agents and representatives (collectively, "**Town Indemnified Parties**") from and against any and all claims, losses, damages, and liabilities (including court costs and reasonable attorneys' fees) (collectively, "**Losses**") arising from" (a) any breach of any covenant, agreement, or obligation of PBRT under this Agreement; or (b) any activity, work, or other thing done, permitted, or suffered at or in connection with the Sports Campus by PBRT or its employees, agents, contractors, or invitees; provided, however, that PBRT shall not be liable to a Town Indemnified Party under this Section to the extent any Loss is caused by the grossly negligent or wrongful intentional acts of such Town Indemnified Party. Upon request by a Town Indemnified Party, PBRT shall defend such Town Indemnified Party against any and all such Losses at PBRT expense. This Section shall survive the expiration or termination of this Agreement.

7.04 Indemnification of PBRT by the Town. Town shall indemnify, defend, and hold harmless PBRT and its directors, managers, officers, employees, agents and representatives (collectively, "**PBRT Indemnified Parties**") from and against any and all Losses arising from (a) any breach of any covenant, agreement, or obligation of Town under this Agreement (b) any activity, work, or other thing done, permitted, or suffered at or in connection with the Sports Campus by PBRT or its employees, agents, contractors, or invitees (including the Crush and Other Users); provided, however, that Town shall not be liable to a PBRT Indemnified Party under this Section to the extent any Loss is caused by the grossly negligent or wrongful intentional acts of such PBRT Indemnified Party. Upon request by a PBRT Indemnified Party, Town shall defend such PBRT Indemnified Party against any and all such Losses at Town expense. This Section shall survive the expiration or termination of this Agreement.

VIII. FORCE MAJEURE

8.01 Force Majeure Event. "**Force Majeure Event**," as used herein, shall mean an unforeseen event or occurrence which is not the result of the affected Party's negligence and is reasonably beyond the control of the affected Party, which may include, but is not limited to, floods, storms, tornadoes, drought or other acts of God; acts of the public enemy, insurrections, fires, explosions, electric power failures, insect infestation or invasion, pestilent invasion and orders or acts of governmental or military authority.

8.02 Effect of Force Majeure Event. If, because of a Force Majeure Event, either Party is unable to carry out its obligations under this Agreement, and if the affected Party gives the other Party prompt notice of such Force Majeure Event, the obligations and liabilities of the Party giving such notice and the corresponding obligations of the other Party shall be suspended only to the extent made necessary by and during the period of such Force Majeure Event. The

Party claiming a Force Majeure Event shall give the other Party prompt written notice of the Force Majeure Event, describing the nature of the occurrence and its reasonable estimate as to duration. A Party claiming a Force Majeure Event shall use commercially reasonable efforts to remedy such Force Majeure Event as soon as reasonably practicable and to the extent reasonably practicable.

IX. MISCELLANEOUS

9.01 Assignment. Neither party may assign this Agreement or any right, obligation or interest hereunder to another person without the express, written approval of the other party, which approval shall not be unreasonably withheld.

9.02 Rental. The Parties acknowledge and agree that PBRT operation, management or other use of the Sports Campus in accordance with this Agreement will involve the temporary licensing of the Diamonds and other parts of the Sports Campus to various organizations, and that such licensing of the Diamonds and other parts of the Sports Campus shall not constitute a subletting of the Sports Campus or otherwise constitute a breach of this Agreement. As set forth in Section 3.01(b), PBRT shall work the Town to accommodate Other Users needs with the understanding that tournaments will take precedent and there will be limited availability.

9.03 Waiver. No waiver of any provision, covenant or condition or the breach of any provision, covenant or condition of this Agreement shall be taken to constitute a waiver of any subsequent breach of such provision, covenant or condition or justify or authorize a non-observance on any other occasion of such provision, covenant or condition or any other provision, covenant or condition.

9.04 Benefit of Town and PBRT. This Agreement and all of the terms and provisions hereof shall inure to the benefit of and be binding upon Town and PBRT, and their respective successors and permitted assigns.

9.05 Governing Law. This Agreement shall be governed in accordance with the laws of the State of New York, without regard to its conflict of law principles.

9.06 Prior Agreements. This Agreement contains all of the agreements of the Parties with respect to the subject matter of this Agreement, and no prior agreement, understanding or representation, either verbal or written, pertaining to any such matter shall be effective for any purpose.

9.07 Amendments. No provision of this Agreement may be amended or otherwise modified except by an agreement in writing signed by the Parties.

9.08 Notice. Any notice required or permitted to be given by either Party pursuant to this Agreement shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt) or by electronic transmission (with confirmation received by the sender), (b) one (1) business day after being sent by a nationally recognized overnight delivery service, or (c) three (3) business days after being sent by registered or certified United States mail, postage prepaid, return receipt requested, in all cases addressed to the Party for whom it is intended at its

address set forth below, or to such other address as a Party shall have designated by notice in writing to the other Party in the manner provided by this Section.

If to PBRT: PBR Tournaments NY, LLC
ATTN: Ken Kocher
11552 Ridge Valley Court
Zionsville, IN 46077
Telephone: (317) 523-5981

With a copy to: Bose McKinney & Evans LLP
ATTN: Brantley H. Wright
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
Telephone: (317) 684-5249

If to Town: Town of Cortlandville
ATTN: Supervisor
3577 Terrace Road
Cortland, NY 13045
Telephone: (607) 756-6091

9.09 Authority. Town represents and warrants to PBRT that it is a duly formed municipal corporation organized under the laws of the state of New York and has full legal power to enter into this Agreement and to consummate all transactions connected with, and perform all of its obligations set forth in, this Agreement. PBRT represents and warrants to Town that it is a limited liability company duly organized and validly existing under the laws of the State of Indiana and has full legal and statutory powers under municipal, state or federal laws, regulations, rules or ordinances, as amended, to enter into this Agreement and to consummate all transactions connected with, and perform all of its obligations set forth in, this Agreement.

9.10 No Partnership or Joint Venture. Each Party is an independent contractor of the other Party for the purpose of this Agreement and not an employee, partner, joint venturer, principal or agent of the other Party. The relationship between the Parties shall not be construed to be a joint venture, a partnership or a similar relationship as a result of any terms or conditions of this Agreement or otherwise. Neither of the Parties has any authority to bind or commit the other in any respect whatsoever, and neither shall hold itself out as the agent, principal, partner, joint venturer, employee or associate of, or as having any power or authority to bind or commit, the other Party.

9.11 Rules of Interpretation. This Agreement has been fully negotiated by the Parties and any ambiguities shall not be strictly construed for or against either Party. Section headings in this Agreement are for ease of reference and are not intended to be relied upon in interpreting the provisions of this Agreement.

9.12 Counterparts. This Agreement may be executed in any number of counterparts (including via facsimile or e-mail), each of which is an original, but all of which together shall constitute one and the same instrument.

9.13 Third-Party Performance. Each Party shall be entitled to use third-party contractors or other agents or representatives to perform its obligations under this Agreement; provided, however, that such Party shall be responsible for the performance of any such third-party contractors or other agents or representatives under this Agreement and, upon the failure of any such third-party contractor or other agent or representative to comply with the terms of this Agreement, such Party shall be liable for such failure and shall continue to be obligated to satisfy the terms and conditions of this Agreement.

[signatures on following page]

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

"TOWN"

Town of Cortlandville

"PBRT"

PBR Tournaments NY LLC

By



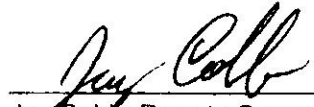
By

Printed: Tom Williams

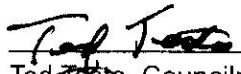
Printed: _____

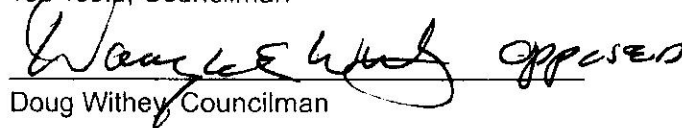
Title: Supervisor of the Town of Cortlandville, NY

Title: _____


Jay Cobb, Deputy Supervisor


Jeff Guido, Deputy, Supervisor


Ted Testa, Councilman


Doug Withey, Councilman

procedurally wrong

Reviewed & Approved as to
Form & Content


John A. Delyvecchio Town Attorney

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

"TOWN"

"PBRT"

TOWN OF CORTLANDVILLE

PBR Tournaments NY, LLC

By: _____

By: Ken Kocher

Printed: Thomas Williams

Printed: He Kate

Title: Supervisor of Town of Cortlandville, NY

Title: Member

EXHIBIT A

Map of “Diamonds”

[To be completed.]

EXHIBIT B

The "Equipment"

Items to be provided

- a. Batting Cages -- to be provided on or before the Final Completion Date.
- b. Netting -- including spectator safety netting and batting cages. With respect to each Diamond, to be provided on or before completion of each Diamond. With respect to the batting cages, to be provided on or before completion of each batting cage
- c. Lights for 4 fields - to be provided on or before completion of each Diamond
- d. Backstops at each field - to be provided on or before completion of each Diamond
- e. Bleachers/seating at each field - to be provided on or before completion of each Diamond
- f. Foul poles at each field - to be provided on or before completion of each Diamond
- g. Fencing at each field (including gates to allow maintenance equipment to enter fields) - to be provided on or before completion of each Diamond
- h. Electronic Scoreboards for each field - to be provided on or before completion of each Diamond
- i. Bases for each field - to be provided on or before completion of each Diamond
- j. Benches for Dugouts at each field - to be provided on or before completion of each Diamond
- k. Pitching plates at each field - to be provided on or before completion of each Diamond
- l. Portable pitching mounds for each field - to be provided won or before completion of each Diamond

EXHIBIT C

Town's Additional Responsibilities

1. Town shall be responsible for all capital repairs and replacements (as determined under generally accepted accounting principles consistently applied) including the repair and replacement of the roof and structural portions of any structure on the Sports Campus and artificial turf and any capital improvements to the parking areas, driveways, sidewalks and other capital improvements at the Sports Campus.
2. The replacement of the bulbs and fuses used by the lighting for the Diamonds to the extent such service is not provided by the contractor or manufacturer that provides lighting for the Diamonds.
3. Town will ensure that PBRT enjoys peaceful possession of the Sports Campus and shall have the sole and exclusive right to manage, operate and otherwise use the Sports Campus.
4. Town shall maintain adequate means of ingress and egress to and from the Sports Campus for the operation, management, maintenance and use thereof as contemplated by this Agreement.

EXHIBIT D

The “Monthly Lease Schedule”

<u>Lease Year</u>	<u>Monthly</u>	<u>Annual</u>
1	\$18,166.67	218,000,00
2	\$18,166.67	218,000,00
3	\$18,166.67	218,000,00
4	\$18,166.67	218,000,00
5	\$18,166.67	218,000,00
6	\$18,166.67	218,000,00
7	\$18,166.67	218,000,00
8	\$18,166.67	218,000,00
9	\$18,166.67	218,000,00
10	\$18,166.67	218,000,00
Renewal		
11	\$18,166.67	218,000,00
12	\$18,166.67	218,000,00
13	\$18,166.67	218,000,00
14	\$18,166.67	218,000,00
15	\$18,166.67	218,000,00
Renewal		
16	\$18,166.67	218,000,00
17	\$18,166.67	218,000,00
18	\$18,166.67	218,000,00
19	\$18,166.67	218,000,00
20	\$18,166.67	218,000,00

*Subject to adjustment for late delivery or terminating rights under Section 3.01(b).