

**SHARED USE AGREEMENT BETWEEN
LINCOLNWOOD SCHOOL DISTRICT NO. 74 AND
LINCOLNWOOD BASEBALL & SOFTBALL ASSOCIATION**

THIS SHARED USE AGREEMENT (“Agreement”) is entered into by and between the BOARD OF EDUCATION OF LINCOLNWOOD SCHOOL DISTRICT NO. 74, a body politic and corporate, (“District”) and LINCOLNWOOD BASEBALL ASSOCIATION, an Illinois not-for-profit corporation also doing business as “Lincolnwood Baseball & Softball Association”, (herein “LBSA”) as of August 4, 2022.

WHEREAS, the District owns the real property located at 6850 N. East Prairie Road, Lincolnwood, Illinois 60712, also known as Rutledge Hall School (the “Site”); and

WHEREAS, LBSA desires to utilize the gymnasium on the Site for temporary batting cage installation and use (the “Permitted Uses”); and

WHEREAS, the District has determined that LBSA’s use of the Site as set forth herein for its programs and activities will not interfere with the District’s use of the Site and will enhance the delivery of LBSA’s services to constituents of the District; and

WHEREAS, LBSA desires to utilize the Site and to enter into this Agreement defining the rights, duties, liabilities of the parties relating to the Site; and

WHEREAS, the Board of Education of the District has the authority to enter into agreements providing for the use of District facilities pursuant to Section 10-22.10 of the Illinois School Code and has delegated such authority to the Superintendent pursuant to Board Policy 8:20 and the administrative procedures thereto; and

WHEREAS, the Board of Education of the District has determined that it is in its best interests to enter into agreements such as this pursuant to the authority granted to it pursuant to the *School Code*, including, but not limited to, Section 10-22.10 thereof (105 ILCS 5/10-22.10).

NOW, THEREFORE, in consideration of the following mutual covenants and agreements, the District and the LBSA agree as follows:

1. **Grant of License.** The District hereby grants LBSA a non-exclusive agreement to use the Site for the Permitted Uses during the term stated herein subject to the terms and conditions of this Agreement. Incident to the Permitted Uses, LBSA shall also be permitted reasonable ingress and egress to and from the Site, non-exclusive use of the parking lot and driveways, and non-exclusive use of common areas such as bathrooms and hallways. When utilizing the Site under this Agreement, LBSA, its members, guests and invitees shall enter where designated by the District.

2. **Term.** The term of this Agreement shall commence immediately upon approval by both Parties and shall end on June 30, 2023 (the “Initial Term”). Thereafter, this Agreement shall automatically renew for 12-month terms that begin on July 1 and end on the following June

30 (a “Renewal Term”). The parties may terminate this Agreement at any time by mutual agreement in writing, signed by both parties. Either party may unilaterally terminate this Agreement by written notice to the other party, sent in accordance with Paragraph 14 below, at least thirty (30) days prior to the end of the term.

LBSA shall only be entitled to use the Site on the days mutually agreed upon by the parties on student attendance days after student attendance hours, for the Permitted Uses, subject to the use restrictions set forth in this Agreement. The parties shall meet to set a schedule for use of the Site during the Initial Term. The agreed upon schedule shall be signed by both parties and attached to this Agreement as Exhibit A. Site access for Renewal Terms shall be the same unless the parties meet and set a new schedule, which shall also be signed by both parties and attached to this Agreement an additional exhibit.

3. **Permitted Uses and Conditions of Site.** The District is providing the Site on an “AS-IS” condition and makes no representations or warranties of any kind with respect to the condition of the Site or the fitness of the Site for any particular purpose or use. LBSA shall not use the Site for any use other than the Permitted Uses without the express written consent of the District, which it may withhold in its sole discretion. LBSA shall ensure that all of the programs it operates on the Site are properly supervised by individuals with the appropriate training to supervise such programs. Additionally, all coaches, staff and employees of LBSA who will be present on District property pursuant to this Agreement shall, prior to the commencement of this Agreement, submit to a fingerprint based criminal background check as detailed in Section 10-21.9 of the *School Code* (105 ILCS 5/10-21.9) to ensure that any coaches, staff and employees of LBSA have not been convicted of any of the prohibited offenses in such Section. No coach, staff member or employee of LBSA shall participate in any program under this Agreement, provide any services related thereto or be present on the District property if said person has been convicted of a prohibited offense.

4. **License Fee.** During the Initial Term, the District shall waive the license fee for this Agreement. For Renewal Terms, the District in its sole discretion shall set the license fee. Rates may be set in accordance with Board of Education Policy 8:20-E1 Fee Schedule, or may be modified in the discretion of the District. The license fee determination shall be signed by both parties and attached to this Agreement an additional exhibit (which may be combined with any updated Site access schedule). Amounts shall be invoiced by the District monthly and shall be due within fourteen (14) days of receipt of the invoice. For hourly rates, a minimum of one hour will be charged. If the District does not receive the amount of the invoice when due, said invoice shall be considered late and LBSA shall pay a late fee of \$100.

5. **Alterations to Site.** LBSA shall make no alterations or improvements to the Site without the prior written approval of the District, which approval may be withheld in the District’s sole discretion. LBSA shall further be responsible for the removal of any additions to or installations on the Site, if so directed by the District, and for the cost of the repair of any damage to the Site as a result of said alterations, additions, or installations. Furthermore, LBSA shall not take any action on the Site that may result in a lien thereon. To the extent any lien is filed, recorded or asserted against the property due to any act or omission of LBSA, or its use of the Site, LBSA shall promptly discharge such lien; if LBSA fails to promptly discharge such lien, the District may

take such steps as it deems necessary to discharge the lien. LBSA shall be responsible for all costs and expenses incurred by the District in discharging any lien or repairing any damage to the Site, including reasonable attorneys fees.

The District acknowledges that LBSA's intended usage requires the installation of mounting anchors to walls of the gymnasium. The District and LBSA shall cooperate on the location and installation of said anchors. The District retains discretion over the final approval of the location of anchors, but its approval shall not unreasonably withheld. LBSA shall be responsible for the installation of said anchors by a professional contractor, who shall provide adequate insurance with the District named as an additional insured prior to the performance of the work.

6. **Priority Use of the Site.** The District shall retain priority use of the Site in the event it is needed for school-related activities. In such an event, the District shall provide LBSA with at least fourteen (14) days advanced written notice of such conflict and the District shall be entitled to use of the Site. LBSA shall be entitled to a refund of any prepaid fees related to the District's use of the Site under this Paragraph.

7. **Maintenance.** During its use of the Site, LBSA shall be responsible to maintain the Site in good and safe condition for the uses and purposes for which it is authorized to use the Site hereunder and shall leave the Site in a neat and clean condition. LBSA shall remove all personal property from the Site at the end of the use thereof. Any personal property left on the Site shall become the property of the District and it may dispose of it as it deems appropriate. LBSA shall be responsible for all costs and expenses incurred by the District in disposing any personal property left at the Site. Further, LBSA shall indemnify and hold harmless the Indemnitees (defined in Paragraph 10 below) from any claim by any third party related to the District's disposal of any personal property pursuant to the terms of this Paragraph.

8. **Equipment.** LBSA shall be responsible for providing all equipment necessary to operate its programs, including set-up, removal, and off-site storage. The District shall not provide any on-site storage or assistance in set-up or removal of equipment.

9. **Insurance.** LBSA shall maintain at all times while this Agreement is in effect, the following insurance: (i) commercial general liability insurance, on an occurrence basis, in the amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (ii) excess or umbrella insurance coverage on an occurrence basis in the amount of at least \$3,000,000 in the aggregate and per occurrence; (iii) automobile liability insurance with a limit of not less than \$1,000,000 each accident and such insurance shall cover liability arising out of any auto (including hired and non-owned autos); and (iv) workers' compensation insurance in at least the minimums required by law. LBSA shall name the Indemnitees (as defined in Paragraph 10 below) as additional insureds on all insurance required hereunder with the sole exception of the workers' compensation insurance. LBSA shall provide the District with a certificate of insurance, in a form acceptable to District, evidencing the insurance required hereunder. Upon demand, LBSA shall provide copies of all insurance policies required hereunder, and endorsements thereto, to the District. All insurance of LBSA shall be primary. Further, to the fullest extent permitted by such

policy, LBSA waives any and all rights of subrogation it or any of its insurers may have against any Indemnitee.

10. **Indemnity and Waiver.** LBSA hereby agrees to indemnify and hold harmless the District, its individual Board members, officers, officials, employees, volunteers and agents (collectively “Indemnitees”), harmless from and against any and all liabilities, obligations, claims, demands, damages, causes of action, costs, fees and expenses whatsoever, including, but not limited to reasonable attorney’s fees, that arise out of, relating to or are connected with LBSA’s use of the Site, or any breach of this Agreement. Further, to the fullest extent permitted by law, LBSA waives any and all claims, demands and causes of action it may have now or in the future against the Indemnitees arising out of, related to or connected with LBSA’s use of the Site or any breach of this Agreement. LBSA shall ensure that it obtains insurance to cover the indemnification obligation stated in this Paragraph.

11. **Compliance with Laws.** In utilizing the Site, LBSA shall comply fully with the requirements of the *Illinois Human Rights Act* (775 ILCS 5/1-101 *et seq.*) including, but not limited to, the provision of sexual harassment policies and procedures pursuant to Section 2-105 of the Act, as well as all other applicable laws, rules and regulations. LBSA further agrees to comply with all federal Equal Employment Opportunity Laws, including, but not limited to, the *Americans With Disabilities Act* (42 U.S.C. § 12101 *et seq.*), and their rules and regulations.

12. **Property Taxes.** LBSA shall be responsible for any taxes and fees assessed against the Site or District property as a result of LBSA’s use thereof, if any. LBSA shall promptly pay such taxes and fees upon demand. If LBSA fails to make such payment, the District may make such payment and LBSA shall be responsible for such payment and all other costs and fees, including attorneys’ fees incurred by the District related to making such payment and obtaining reimbursement thereof from LBSA.

13. **Default.** If any party fails to comply with any of the terms hereof, the other party shall provide the breaching party with written notice describing in reasonable detail the nature of the breach. Upon receipt of the notice, the breaching party shall have fourteen (14) days to either remedy such breach, or, if such breach cannot be reasonably remedied within fourteen (14) days, take action to remedy such breach within said fourteen (14) days as quickly as is reasonably possible. If the breaching party fails to take action as required within the fourteen (14) day period, then the breaching party shall be in default of this Agreement and the non-defaulting party may suspend its obligations hereunder until such default is remedied, terminate this Agreement or take such other action as the non-defaulting party may have in equity or law. The District’s maximum liability hereunder shall not exceed the amount of any prepaid fee made by LBSA. LBSA AGREES TO WAIVE ITS RIGHT TO A JURY TRIAL.

14. **Notice.** Any written notices provided for in this Agreement and copies of all correspondence shall be transmitted the parties at the following addresses:

LBSA

John James Dreuth
Lincolnwood Baseball Association
5424 W. Devon, Ste. 46443
Chicago, Illinois 60646

District

Dr. David Russo, Superintendent
Lincolnwood School District No. 74
6950 N. East Prairie Road
Lincolnwood, Illinois 60712

15. **Incorporation.** The recitals set forth above are incorporated into and made a part of this Agreement. In addition, the Board of Education's policies, exhibits, and administrative procedures on community use of school facilities and physical fitness facilities are incorporated into and made a part of this Agreement, including but not limited to Policy 4:170 and Policy 8:20.

16. **Governing Law and Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Illinois. Venue for all actions between the parties shall lie solely in the state court having jurisdiction over Cook County, Illinois, and LBSA hereby submits to the jurisdiction of that court.

17. **Complete Understanding.** This Agreement constitutes the sole and only Agreement of the parties and supersedes any prior understanding or written or oral agreement between the parties respecting the within subject matter.

18. **Amendment.** No amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties.

19. **Waiver.** The failure of either party to demand strict performance of this Agreement on any one occasion shall not prohibit such party from demanding strict performance hereof on any future occasion.

20. **Authority to Execute.** Each signatory hereto represents and warrants that they have the proper corporate authority to execute this Agreement and bind their respective entity to the terms and conditions hereof.

21. **No Third Party Beneficiaries.** This Agreement is by and between the signatories hereto and does not convey any benefits or rights to any third parties and no third party may rely upon the terms and conditions hereof.

22. **Assignment.** LBSA may not assign its interests in this Agreement to any third party without the prior written consent of the District, which it may withhold in its sole discretion.

23. **Counterparts & Facsimile Signatures.** This Agreement may be executed in multiple counterparts, and a set of counterparts bearing the signatures of both parties constitutes the Agreement as if the parties had signed a single document. Facsimile signatures shall constitute original signatures for all purposes of this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the date first set forth above.

**LINCOLNWOOD BASEBALL
ASSOCIATION, an Illinois not-for-profit
corporation**

**BOARD OF EDUCATION OF
LINCOLNWOOD SCHOOL
DISTRICT NO. 74**

By: _____

By: _____

Dr. David Russo, Superintendent

Name: _____

Title: _____