



and practices, and (b) September 1 through October 31 of each year of the Agreement Term for the limited purpose of holding three (3) tournament events with three (3) rainout dates (hereafter, "Use Dates"). Each tournament event shall be limited to... **LIMITS.** Requests for permission for additional games or events during the fall season must be received from the Park and Recreation liaison for Borough Council and are subject to the approval of the Owner.

On the Use Dates, as described above, User's use may occur (a) on Weekdays and Saturday from 8:30 a.m. to dusk, and (b) on Sundays from 12:00 noon to dusk (hereafter, the "Use Times").

With the exception of fulfilling its maintenance and inspection responsibilities as set forth herein, User shall have no right to use the Premises other than during the Use Times and Use Dates as set forth above. During all other periods of time, the community at large shall have free use and access to the premises, subject to other use regulations adopted by the Owner.

3. Maintenance: User, at User's expense, shall (a) maintain all buildings and structures located on the premises in good condition; (b) provide required custodial and janitorial services, including trash collection and removal, for buildings and public areas; and (c) provide necessary landscaping and lawn care for the ballfields.

4. Inspection: User or its designated agent shall physically inspect the premises daily and keep a written log. Any defects, including vandalism, identified shall be promptly recorded in the log and reported to Owner. User shall promptly take all actions necessary to correct the defect. User shall advise the Owner when and how the defect was corrected. User shall present the written log to Owner for inspection upon request.

User shall provide quarterly updates to the Newtown Borough Park and Recreation Board Liaison regarding the condition of the fields. If requested by the Liaison, a representative of User shall attend the quarterly meetings of the Newtown Borough Park and Recreation Board in order to update the Board on issues involving the Premises.

5. Alterations and Repairs: User agrees that it is using the Premises "as is." Any and all alterations that are necessary and/or desirable for the intended use of the User must be approved by the Owner, in writing, prior to the making of such alterations or repairs. All improvements made by User to the premises shall become the property of the Owner.

User, at User's expense, shall install a safety rail or fence around the bleachers and extend the batting cages to deflect foul balls, both in a manner satisfactory to Owner, prior to April 1, 2010.

User, at User's expense, agrees to promptly take all necessary actions to correct any safety issues discovered or identified by User as well as any safety concerns raised by the Owner.

6. User's duty to obey laws and regulations: User must comply with all laws, orders, rules, requests and directions of all governmental authorities. User shall not take any action, or fail to take any action, the commission or failure of which results in an increase Owner's insurance premiums. In the event that any action or inaction by User causes an increase in Owner's insurance premiums, User must pay the amount of such increase. In any such event, Owner shall further have the option to demand that User discontinue the action that caused the increase or take the action, the omission of which caused the increase.
7. Insurance: User shall provide liability insurance coverage and any other type of insurance that may be required by Owner in amounts acceptable to Owner prior to the use of the premises. Owner shall be listed as a certificate holder and additional insured on all policies. Upon the issuance of such policy, and the renewal of any term thereof, User shall provide a certificate of insurance to Owner. The certificate of insurance shall confirm that the coverage cannot lapse, or otherwise be terminated or ended without at least 30 days advance written notice to Owner.
8. Representations, changes in Agreement: User acknowledges that it has read and understands this Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject of this Agreement and supersedes any and all prior agreements or understandings (whether written or oral) on such subject.
9. End of Term: At the end of the Term, User must leave the Premises clean and in good condition, subject to ordinary wear and tear.
10. Premises "as is": User has inspected the Premises and is taking the Premises in its present "as is" condition.
11. Release: User hereby releases Owner and agrees to defend, indemnify and save Owner, Newtown Borough Council, its employees, Board and Commission members and/or agents, harmless from any and all

liability, claims, causes of action, judgments or otherwise, in any action for injury, damages or death which may arise from any kind of injury to any person by or on account of any physical condition that may at any time exist upon the demised premises or any walkway adjacent thereto, or on account of any act or omission by User, its agents, servants, employees, guests or any other person, and for all matters arising from or on account of this Agreement during the term hereof or any renewal thereafter.

12. Hazardous Materials: User agrees to be responsible for the discharge of any hazardous materials by the User or its agents onto and/or into the Premises during the term of the Agreement. However, User shall not be responsible for any claims, liabilities, losses, damages, responsible costs, cleanup costs or expenses arising out of the discharge of any hazardous materials into the premises prior to the date of this Agreement or by third parties during the term of the Agreement.

13. Breach by User: If User fails to comply with all of the terms and conditions of this Agreement including the Rules and Regulations attached hereto, Owner may terminate this Agreement. The parties acknowledge that this is a use Agreement and not a Lease. The parties further agree that this Agreement does not confer upon the User any rights or protections provided by the Landlord-Tenant Act of 1951. To the extent such Act is determined to apply, User hereby waives any rights set forth therein, as permitted by law. In any event, User specifically waives any right to receive notice to quit, written, verbal or otherwise, prior to termination of this Agreement or in advance of any action for possession.

14. Additional Rules and Regulations User agrees to comply with the following requirements with regard to the use of the premises:

A. User shall not permit any other person, organization or entity to use the premises even if such activity is related to baseball such as baseball camps and instructional activities.

B. The Park and Recreation Liaison of Borough Council must approve any special events being proposed by User.

C. User may use a public address system for the limited purpose playing the national anthem and announcing team rosters and batters. Play-by play or chatter shall be strictly prohibited. All speakers used shall be facing the ball fields and the volume shall be kept at a reasonable level.

D. No radios and/or music may be played during games and practices.

E. Temporary advertising signs are permitted on game days. However, all signs must receive prior approval from Owner prior to erection. All signs must be removed at the end of each game day. Owner shall have the right but not the obligation to remove any sign not permitted by this paragraph.

F. User shall take the necessary steps to protect the premises from vandalism and littering, including while the User is using the premises.

G All activities in which any participant is under the age of eighteen (18) years shall be supervised by a reasonable number of responsible adults at all times.

15. Notices:

All notices must be in writing. If notice is to be to the User, it must be delivered or mailed to the User at the address above. If notice is to be to the Owner, it must be mailed or delivered to Owner's address. Notices will be considered delivered on the day mailed (or if not mailed, when left at the proper address).

User shall provide to Owner the names, addresses, positions, phone numbers and e-mail addresses of all User's Board members at the signing of this Agreement. Such information shall be updated annually.

16. Termination:

Either party may terminate this Agreement at the end of any calendar year provided notice is delivered to the other party by December 31 of said calendar year. Owner may terminate this Agreement immediately if User fails to comply with the terms of this Agreement.

17. Amendment:

No terms of this Agreement may be changed except by written agreement of both parties. This Agreement binds and benefits both the Owner and User and any heirs, successors, representatives, or assigns.

18. Governing Law:

The Laws of the Commonwealth of Pennsylvania shall govern this Agreement.

In Witness Whereof, the parties, intending to be legally bound, represent that each has the requisite authority to sign this Agreement and have signed this Agreement the day and year first written above.

OWNER:  
Newtown Borough

USER:  
Council Rock Newtown Athletic  
Association

By: \_\_\_\_\_  
Julia Woldorf, President

By: \_\_\_\_\_  
Name:  
Title:

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