

AGREEMENT

THIS AGREEMENT made this day ___day of February 2018, by and between the TOWN OF PENDLETON (hereafter referred to as the Town), a Municipal Corporation having its principal offices at 6570 Campbell Boulevard, Lockport, New York 14094 (hereinafter refer to as "Pendleton" or "Town"), and the CENTRAL NIAGARA BASEBALL AND SOFTBALL ASSOCIATION, INC., a New York not-for-profit corporation, having its principal offices and place of Business at 5677 S. Transit Road, PMB 290, Lockport, New York 14094 (hereinafter referred to as "CNBSA").

WHEREAS, the Town desires to contract out the responsibility for conducting a program to benefit youth residing in the Town and surrounding areas, for baseball season 2018 and

WHEREAS, CNBSA desires to provide baseball and softball programs similar to those previously provided by CNBSA in years previous,

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. CNBSA shall provide baseball and softball programs for youths. CNBSA shall be entitled to establish its own eligibility requirements, but shall include baseball and softball (including t-ball and "Challenger" divisions) programs. Such baseball programs are intended to be similar to those previously provided by the Town.
2. All youth residing in the Town of Pendleton shall be eligible to participate, so long as they are under the age of 18 years, with the exception of those playing in the "Challenger" divisions which have no age restrictions. The Town's former eligibility requirements shall be utilized by CNBSA.

3. CNBSA shall be entitled to the use of Town fields located at the Town facility and including the facility leased from Pivot Punch Corporation and on such adjacent property, to be used as baseball and softball fields. CNBSA shall be entitled to use such facilities to play baseball and/or softball seven days per week, weather permitting. Such use of the facilities to play baseball and/or softball by CNBSA shall commence in April and shall continue through and including the second weekend in August for regular programs, and thereafter for periodic games, clinics, etc., in connection with the program provided by CNBSA. Any use of such fields by others shall not interfere with CNBSA's programs. The scheduling of Baseball and/or Softball Practice and game usage shall be at such times as CNBSA shall determine.
4. CNBSA shall be entitled to charge a fee to participants. The fee shall be comparative with other youth baseball and softball programs located within Niagara County.
5. Any purchases required to support program growth and development shall be agreed upon by the Town and CNBSA if Town funding is requested. The amount of funding provided by each group will be agreed upon by both parties.
6. CNBSA shall:
 - a. Provide a schedule to the Town, prior to the start of each season. CNBSA will notify the designated Town contact of any changes/additions to the schedule with no less than 24 hour notice of required change.
 - b. Provide a complete roster of all children who participate in the program, including name, age and Town of residence, by June 1st of each season. All such participants, or in the case of a minor the parent of such participant, shall sign the release which is attached hereto as Schedule A prior to participating in any baseball and/or softball activities of CNBSA.

- c. On or by October 1st of each season, CNBSA shall provide a report of the program to the Town, including numbers of children who have participated each program, revenues received by CNBSA, the assessment of the program as to operating success and deficiencies and plans for the program for the following year.
- d. Provide names and addresses of the officers of CNBSA.
- e. Provide monthly reports of activities including, but not limited to, number of participants, concession stand activity and updated field availability.
- f. Pay a fee of **ten and 00/100** for each non-Town resident for the use of the facilities. An additional fee of **two hundred – fifty and 00/100** will be paid as reimbursement for the rental cost for the portion of the facilities that are leased from Pivot.
- g. Supply and require all participants in the softball and/or baseball program to utilize on all necessary occasions all baseball and/or softball equipment [i.e. bats, balls, helmets and any other necessary safety equipment]. Such equipment shall at all times be maintained in a condition so as to provide maximum protection to baseball and or softball participants.
 - i. All CNBSA supplied equipment shall comply with current Little League, Cooperstown and High School safety guidelines as they pertain the baseball programs, specifically surrounding bats, balls, helmets and other necessary safety equipment.
 - ii. All CNBSA supplied equipment shall comply with current Pony, NSA and ASA safety guidelines as they pertain to softball programs, specifically surrounding bats, balls, helmets and other necessary safety equipment.

iii. CNBSA reserves the right to adjust above mentioned guidelines to allow participation in local baseball/softball leagues.

~~h. Supply all dugout covers to be installed by the Town. All such dugout covers shall at all times be maintained in a condition so as to provide maximum protection to baseball and or softball participants. We would like to discuss all replacements. This is covered under paragraph 5.~~

i. CNBSA will purchase a field groomer to be used for maintaining the Town baseball and/or softball facilities. The field groomer shall be the property of CNBSA, but may be operated by Town employees to maintain above mentioned facilities.

7. The Town shall be responsible for:

a. Upkeep and maintenance of the fields, including, but not limited to, cutting the grass, bringing in additional dirt as required, chalking, dragging, etc., during regularly scheduled work hours, by Town employees. This work shall be completed prior to the start of regularly scheduled games.

b. Install any agreed upon items, including but not limited to, dugout covers, fence coverings, etc., between April 15th and May 15th of the current season, weather permitting.

c. Removal of any of the items outlined in 7.b. Such removal shall be completed no later than September 15th of the current season.

d. Perform any and all Manufacturer recommended maintenance of CNBSA owned and provided field groomer. In addition, the Town shall provide a secure location for the storage of such field groomer. The field groomer shall be located where CNBSA has sufficient access as to meet the requirements outlined in section 7.e in order to properly prepare fields.

- e. If any of the above mentioned work cannot be completed as outlined, the Town shall notify CNBSA no less than two (2) hours prior to start of scheduled games. At time of notification, CNBSA members and volunteers shall be allowed to prepare fields during non-regularly scheduled town working hours.
8. CBSA shall designate authorized persons who shall have access the Town's equipment shed located proximate to the fields.
9. CNBSA shall have the use equipment associated with field usage, with the exception of Town owned motorized equipment, including, but not limited to chalking machine, rakes, batting box templates, quick dry etc., provided that CNBSA will replace, at its own expense, such equipment as it becomes damaged, used up or obsolete to the extent of CNBSA's use thereof.
10. CNBSA shall have the use, in conjunction with running its baseball and softball programs, of the Town's batting cage. During its use CNBSA shall limit operation of the batting cage to individuals who are qualified to operate the cage and have been properly trained in the usage. During its use CNBSA shall not allow unsupervised use of the cage.
11. CNBSA shall have the ability to operate concessions in connection with the baseball and/or softball programs while games are being played. CNBSA shall be responsible for temporary concession stands, securing the same, obtaining any necessary permits operation, insurance etc. Any proceeds realized by CNBSA in connection with concessions shall belong to CNBSA for use in their baseball and softball programs. **Use of the concession stand is the exclusive right of CNBSA and its volunteers. Any use by parties other than CNBSA and its volunteers will require approval by CNBSA.**

12. CNBSA shall be authorized to use the equipment shed for storage of concession supplies, field equipment and other equipment and supplies utilized in connect with operation of the programs.
13. CNBSA shall not be held responsible for any injury to Town employees while operating CNBSA owned equipment. **Any damage caused to CNBSA equipment while being operated by Town employees shall be the responsibility of the Town.**
14. Subject to upkeep and maintenance of the facilities by the Town as set forth in paragraph 7 above, the Town shall not be obligated to otherwise improve the Town fields, including, without limitation, providing lighting for the Town fields, unless agreed upon by the Town and CNBSA.
15. Town and CNBSA, during the course of this agreement, will maintain an open dialogue, relating to future improvements and operations of the program, provided, however, that nothing in this paragraph shall obligate either party to anything beyond the terms and obligations set forth in this contract.
16. All notices in connection with this contract shall be directed as follows:

To the Town:

Supervisor and Chairman of the Recreation Committee
6570 Campbell Boulevard
Lockport, New York 14094

To the CNBSA:

5677 S. Transit Road
PMB 290
Lockport, New York 14094

17. This contract shall run for a period of one year beginning January 15, 2018, and shall automatically renew thereafter for additional periods of one year, unless either party provides the other with written notice on or before October 1st of any year if its intent not to renew.
18. CNBSA shall obtain general liability insurance and shall name The Town of Pendleton and Pivot Punch Corporation as additional insured on a primary and non-contributory basis. The amount of the insurance shall be an aggregate amount of \$2,000,000.00 with an upper Limit \$1,000,000.00 per occurrence.
19. The Town shall provide access to the Town Hall for season registration and monthly CNBSA Board meetings.
20. Other than as set forth in this agreement, CNBSA shall have full control of the operations of the program as an independent contractor and shall have full authority to conduct programs, as determined by its governing body, without interference by the Town.
21. Neither party shall have liability for the acts or omissions of the other party or any of its officers, directors, employees, agents or other representatives.
22. Alcoholic beverages shall not be allowed upon the fields at anytime during the conduct of baseball and softball games or any other activities under the stewardship of CNBSA.
23. CNBSA shall be responsible for refuse pick-up and dispose of it in proper containers after each game, practice or other event which it sponsors.
24. CNBSA shall use reasonable efforts to control the conduct of participants and onlookers during usage of the fields and shall use reasonable efforts to not allow unruly behavior and shall, in all respects, conduct the leagues and games to the benefit of the children and

shall take all reasonably necessary steps to prevent abusive behavior by adults. Where necessary, CNBSA is authorized to exclude violators from present and future games. CNBSA shall have the exclusive right to determine who shall be excluded from CNBSA events.

25. This contract shall be governed by the Laws of the State of New York.

26. This Agreement shall not be amended, changed or modified except by agreement in writing signed by both parties hereto.

27. This agreement constitutes the entire agreement between the parties regarding the subject matter herein and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions between the parties, whether oral or written, with respect to such subject matter.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date and year first above written.

Town of Pendleton

By: _____

CENTRAL NIAGARA BASEBALL AND
SOFTBALL
ASSOCIATION, INC.

By: _____