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*PERMIT AND OPERATING AGREEMENT*

BETWEEN

**THE VILLAGE OF SCHAUMBURG**

AND

**THE SCHAUMBURG PARK DISTRICT**

AND

**SCHAUMBURG PROFESSIONAL BASEBALL, L.L.C.**

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***PERMIT AND OPERATING AGREEMENT***

THIS AGREEMENT (the "Agreement") is made and entered into on this 25<sup>th</sup> day of September, 2002 by and among THE VILLAGE OF SCHAUMBURG and THE SCHAUMBURG PARK DISTRICT (collectively, "Schaumburg"), AND SCHAUMBURG PROFESSIONAL BASEBALL, L.L.C., an Illinois limited liability company (the "Club").

WITNESSETH:

***RECITALS OF FACT***

WHEREAS, Schaumburg desires to grant permission to the Club to use the facility currently known as Alexian Field upon the terms and conditions contained herein; and

WHEREAS, Schaumburg and the Club intend that this Agreement govern their respective rights and obligations with respect to the Club's use of Alexian Field;

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

## ***DEFINITIONS***

As used in this Agreement, the following words and terms shall have the following meanings, notwithstanding any other definitions to the contrary whatsoever:

1. "Actual Attendance" shall mean the number of people who physically attend a Flyers' game.
2. "Championship Season" shall mean the regular annual period of play of professional baseball games by the member clubs of the Northern League, including any playoff games or any championship series playoff games, resulting in the determination of one of the members of the Northern League as the champion of that League.
3. "Club" shall mean Schaumburg Professional Baseball, L.L.C., an Illinois limited liability company which shall be managed by company member Richard F. Ehrenreich of Deerfield, Illinois or his successor.
4. "Club Event" shall mean any event scheduled at the Facility by the Club, but not to include Home Games.
5. "Consumer Price Index" or "CPI" shall mean the Consumer Price Index - All Urban Consumers - (base index year 1982-1984=100) Chicago, Gary, Kenosha, IL-IN-I as published by the United States Department of Labor, Bureau of Labor Statistics. If the manner in which the CPI is determined by the Bureau of Labor Statistics shall be substantially revised, including, without limitation, a change in the base index year, an adjustment shall be made by Schaumburg in such revised index which would produce results equivalent, as nearly as possible, to those which would have been obtained if such CPI had not been so revised. If the CPI becomes unavailable to the public because publication is discontinued, or otherwise, or if equivalent data is not readily available to

enable Schaumburg to make the adjustment referred to in the preceding sentence, then Schaumburg will reasonably substitute therefore a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency or, if no such index is available, then a comparable index published by a university, a major bank or other financial institution or a comparable and recognized financial publication.

6. "Departing Game Traffic Control" shall mean personnel hired and paid for by the Village of Schaumburg for the purpose of directing automobile traffic departing Home Games.
7. "Facility" shall mean the stadium currently known as Alexian Field, which is jointly owned by the Village of Schaumburg and the Schaumburg Park District, and its appurtenances, including the parking area, at which the Franchise shall play all Home Games.
8. "Field" shall mean the grass baseball field and playing surface in the interior of the Facility.
9. "Franchise" shall mean the team member of the Northern League, which professional baseball club is wholly owned by the Club, as such professional baseball club is now or hereafter constituted, or such successor or other professional baseball club permitted by the Club to play its home games at the Facility.
10. "Gross Revenues" shall mean all cash, credits, or other consideration derived directly by the Club, arising from or attributable to the operation of the Facility, including, but not limited to the following categories, but excluding any sales, excise or other taxes collected by the Club on behalf of any state, municipality or other governmental unit, and net of bad debt and refunds:

(1) Revenue derived from all regular or playoff tickets and admission fees including general admission, individual game tickets, season tickets, Flex Plan or multiple game ticket packages, group sales, and gift certificates;

(2) All advertising revenue including publications, program advertisements, fence signs, publications, scoreboard advertisements, concourse signage, scorecard advertisements, ticket back advertisement, radio advertisements, message center advertisements, appearances, and promotions;

(3) Public Address announcements;

(4) Radio Broadcasting, Internet Web casting, and Television Broadcasting;

(5) Player transactions;

(6) Suite Rental;

(7) Program Sales;

(8) Charges for Speed Pitch or other interactive amusement devices as may be offered from time to time;

(9) Fan Club dues; and

(10) Net Profit (as defined herein).

The Club shall be allowed to reduce the amount of annual Gross Revenue earned by an amount equal to any cash or cost of goods donated to charities, plus the value of items that are to be included in the definition of Gross Revenue listed above, but that the Club has bartered or traded in exchange for goods and/or services, provided, however, that the amount shall not exceed \$100,000. The \$100,000 figure shall be the maximum annual amount that the Club shall be allowed to deduct from the Gross Revenue calculation for bartered or traded items.

11. "Home Game" shall mean any Northern League game scheduled to be played or played by the Franchise at the Facility during any Championship Season.
12. "League Schedule" shall mean the schedule officially adopted by the Northern League for each Championship Season which sets forth a listing of the professional baseball games to be played during each such Championship season by Northern League clubs as the competition among such clubs resulting in the determination of one of the clubs as the champion of the League for that Championship Season, and the dates and the locations at which all of such games are scheduled to be played.
13. "METRA Parking Lot" shall mean that parking area adjacent to and south of the Facility, said parking area owned and maintained by the Village of Schaumburg for use by commuters on the METRA line that runs through the Village of Schaumburg.
14. "Net Profit" shall mean all cash, credits, or other consideration derived directly by the Club, arising from or attributable to specific net revenue categories (the "Net Profit Categories"), all after deducting the Club's costs and expenses directly attributable to the generation of the Net Profit Categories.

Net Revenue Categories include:

- (1) Mascot appearances;
- (2) Baseball clinics and camps;
- (3) Food and Beverage Sales;
- (4) Souvenir and Merchandise Sales;
- (5) Special events;
- (6) Stadium User Fee;
- (7) Winter Caravan;
- (8) Golf outing;

(9) Fantasy Camp

In calculating Net Profit, costs that are allowed to be deducted from the Net Profit

Categories include:

- (1) The Club's cost of goods sold;
- (2) The Club's commission on sales;
- (3) The Club's personnel salaries and benefits that are 100% attributable to generating revenue within Net Profit Categories;
- (4) Other Club expenses that are 100% attributable to the administration or implementation of Net Profit Categories.

15. "Non-Professional Baseball Uses" shall mean any activities or events, other than (1) organized baseball activities or events, (2) Team Professional Baseball Games, and (3) Other Professional Baseball Uses, whether conducted by Schaumburg, the Club, or any third party in a manner consistent with this Agreement.
16. "Northern League" or "League" shall mean the Northern League of Professional Baseball Clubs, Inc., an independent professional baseball league, as now or as hereafter constituted and of which the Franchise is now a member, or such successor or other professional baseball league or association of professional baseball clubs of which the Franchise may from time to time be a member.
17. "Operating Year" shall mean that period during which the Club plays its games each year as part of the Northern League Championship Season, in addition to the pre-season training periods, which generally precedes the Northern League regular season by approximately ten (10) days.
18. "Other Professional Baseball Games" shall mean professional baseball games other than those played by the Franchise.

19. "Paid Attendance" shall mean the number of people who purchase a ticket to attend a Flyers game, without regard to whether those people physically attend the game.
20. "Park District" shall mean the Schaumburg Park District.
21. "Parties" or "Parties to this Agreement" shall mean Schaumburg and the Club (which shall include the Franchise).
22. "Picnic Area" shall mean that area beyond and north of the left field bleachers at the Facility, in which the Club shall provide food and beverage catering to groups attending those Games and other events at the Facility.
23. "Repair Item" shall mean the single occurrence repair or maintenance relating to a specific component or system located at the Facility.
24. "Schaumburg" shall mean the Village of Schaumburg, IL and the Schaumburg Park District.
25. "Schaumburg Event" shall mean any event held at the Facility by either the Village of Schaumburg or the Schaumburg Park District.
26. "Suites" shall mean the sixteen (16) private skyboxes located on the third (3rd) level of the Facility.
27. "Team Professional Baseball Games" shall mean any Home Games and any other activity or event which is conducted by or for the Club and related to or held in conjunction with any Home Game.
28. "Team's Areas" shall mean those areas of the Facility designated on Exhibit 1, attached hereto, which the Club shall have for its exclusive use during the Term.
29. "The Schaumburg Club" shall mean the Stadium club restaurant/banquet facility located on the third (3rd) level of the Facility.

30. "Village" shall mean the Village of Schaumburg, Illinois.
31. "VIP Parking Fee" shall mean those fees charged and collected by the Club for customer parking in the northernmost section of the METRA parking lot for Home Games.
32. "West Parking Lot" shall mean that parking area across Springinsguth Road to the west of the Facility, said parking area owned and maintained by Schaumburg.

1. **TERM.**

(a) The original term ("Original Term") of this Agreement as subsequently amended commenced on or about May 15, 1999 and shall terminate at 12:59 p.m. September 30, 2014.

(b) Schaumburg and the Club, together, shall have the option to mutually extend this Agreement for three (3) successive five (5) year periods ("Extension Terms") under terms and conditions in effect at the time of the expiration of the Original Term or Extension Term, as the case may be. These Extension Terms may be exercised by the mutual agreement of both Schaumburg and the Club by both mailing written notice thereof no later than one (1) year prior to the expiration of the Original Term or Extension Term, whichever is applicable.

2. **CLUB PAYMENTS TO SCHAUMBURG.**

(a) Facility Use Fee. During the Original Term and any Extension Term of this Agreement, the Club shall annually pay to Schaumburg a Facility Use Fee which shall be the greater of: 1. the sum of Two Hundred Thousand Dollars (\$200,000); or 2. ten percent (10%) of the Franchise's total Gross Revenue for each respective Operating Year.

For each Operating Year during the term of this Agreement, the Club shall pay such Facility Use Fee to Schaumburg in the following manner: Fifty Thousand Dollars (\$50,000) on the 30th day of May, Seventy Five Thousand Dollars (\$75,000) on the fifteenth day of July, and the balance due on the first day of November. After every five (5) Operating Years, the minimum annual Facility Use Fee due hereunder (initially \$200,000) shall be increased to reflect the average increase in the Consumer Price Index for the previous five (5) years.

(b) METRA Parking Lot Use Fee. For the Original Term and any Extension Term of this Agreement, the Club shall make the following METRA Parking Lot Use Fee payments to

Schaumburg at the following times for the ability to use the METRA Parking Lot to park cars during the Franchise's Home Games:

(i) \$20,000 per year, payable on the first day of November for only the first three (3) Operating Years of the Original Term of this Agreement; and

(ii) \$10,000 per year, payable on the first day of November for the final twelve (12) Operating Years of the Original Term or any Operating Year of any Extension Term of this Agreement.

(c) West Parking Lot Use Fee. For the Original Term and any Extension Term of this Agreement, the Club shall make the following West Parking Lot Use Fee Payments to Schaumburg on the first day of November following each Operating Year for the ability to use the West Parking Lot to park cars during the Franchise's Home Games:

(i) \$0 for the first three (3) Operating Years of the Original Term of this Agreement;

(ii) \$.25 multiplied by Actual Attendance for the fourth (4th) through eighth (8th) Operating Years of the Original Term of this Agreement;

(iii) \$.25 multiplied by Paid Attendance for the ninth (9th) through fifteenth (15th) Operating Years of the Original Term or any Operating Year of any Extension Term of this Agreement.

(d) VIP Parking Fee. For the Original Term and any Extension Term of this Agreement, the Club shall pay Schaumburg on the first day of November following each Operating Year a VIP Parking Fee as follows:

(i) \$0 for the first three (3) Operating Years of the Original Term of this Agreement;

(ii) For the final twelve (12) Operating Years of the Original Term or any Operating Year of any Extension Term of this Agreement, any and all VIP Parking Fees collected by the Club for the previous Operating Year, less \$600.00 annually as an administrative fee.

(e) Departing Game Traffic Control. Schaumburg shall be responsible for establishing appropriate levels of service for Departing Game Traffic Control and shall be responsible for any and all costs for providing this service. Provided however, that for the Original Term and any Extension Term of this Agreement, the Club shall reimburse Schaumburg either Schaumburg's actual cost and expense incurred in procuring Departing Game Traffic Control or the sum of Eleven Thousand Dollars (\$11,000), whichever is less, on the first day of November following each Operating Year as a contribution towards Schaumburg's expense incurred for Departing Game Traffic Control for the previous Operating Year. After every five (5) Operating Years, the Club's payment obligation for Departing Game Traffic Control shall be increased to reflect the average increase in the Consumer Price Index for the previous five (5) years.

(f) Schaumburg Event. During the Original Term and any Extension Term of this Agreement, the Club shall pay Schaumburg eighty-percent (80%) of the Net Profit realized by the Club for any Schaumburg Event at the West Parking Lot, to be paid to Schaumburg within thirty (30) days from the date of the event.

(g) Club Event. During the Original Term and any Extension Term of this Agreement, the Club shall pay Schaumburg forty-percent (40%) of the Net Profit realized by the Club for any Club Event at the West Parking Lot, to be paid to Schaumburg within thirty (30) days from the date of the event.

(h) Well Usage Fee. The Club shall pay Schaumburg on the first day of November following the first five (5) Operating Years of this Agreement the fixed sum of Four Thousand Dollars (\$4,000.00) for the use of the well at the Facility during the entire Term.

(i) Picnic Area Sales. The Club shall pay Schaumburg on the first day of November following each Operating Year the greater of (1) the sum of Six Thousand Dollars (\$6,000.00) or (2) ten percent (10%) of the Franchise's total Net Profit derived annually from the use of the Picnic Area, as same is paid by Club to Schaumburg in addition to the Facility Use Fee required in Article 2 herein (the "Picnic Area Use Fee"). Notwithstanding the aforementioned, Picnic Area Use Fee payments from the Club to Schaumburg shall continue during the Original Term until such payments equal \$76,000.00, after which time such additional payments will cease for the remainder of the Original Term and any Extension Term, but revenues and profits earned from Picnic Area Use will continue to be included in calculating Facility Use Fees required under Article 2 herein.

All payments required in this Article 2 shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid. Schaumburg shall have the right to conduct at its own expense an annual certified audit of the Club's books and records to ascertain the accuracy of the Club's payments to Schaumburg hereunder. The Club shall cooperate fully with Schaumburg to conduct the audit.

The Club shall provide Schaumburg a Personal Guaranty in a form acceptable to Schaumburg, that shall guarantee the Club's performance and its payment obligations hereunder.

Provided that the Club shall have satisfied all of its payment obligations hereunder through November 1, 2003, Schaumburg shall allow the Club to cancel same.

3. **CLUB USE RIGHTS.** Subject to the limitations set forth below, (collectively, the “Club Use Rights”) Schaumburg shall have the exclusive right to use and occupy the Facility and all its appurtenances during the Term.

(a) Field. From May through September each year, the Club may use the Field for scheduled practices, Home Games, and Other Professional Baseball Games during the Championship Season.

(b) Schaumburg Club and Suites. The Club may use the Schaumburg Club and the Suites as a banquet and/or meeting facility for Home Games, Club Events, and at other times that the Facility HVAC system permits the comfortable occupancy of the third (3rd) level of the Facility. Except for during Home Games, under no circumstances shall the Schaumburg Club and Suites be open to the general public as a restaurant facility, but shall only be available for private banquet and meetings at reasonable hours of the day which shall not extend beyond the hours of operation permitted under the liquor license.

(c) Parking. The Club may use the METRA Parking Lot and the West Parking Lot for Home Games, and Club Events.

(d) Team Areas. The Club shall have the exclusive use of the Team Areas at all times during the Club’s use of the Facility.

Any right, license or interest to use or occupy the Facility that are not specifically granted to the Club, shall be deemed reserved by Schaumburg. For the purpose of conducting Team Professional Baseball Games, or other Professional Baseball Games, the Club shall have first

priority of dates over all other activities and events at the Facility. It is specifically provided that should Schaumburg permit the use of the Facility for any Non-Professional Baseball Uses, that Schaumburg shall restore the Facility to the Professional Baseball Configuration at least ten (10) hours prior to the next scheduled organized Baseball activity or event, Team Professional Baseball Game, or Other Professional Baseball Game.

The Club shall have the sole, exclusive, and absolute right to use and occupy the Facility beginning not less than ten (10) hours prior to the scheduled starting time of each Team Professional Baseball Game or Other Professional Baseball Game and continuing until at least (5) hours after the completion of each such event.

Either the Village or the Park District may schedule an event at the Facility so long as it does not interfere with the Club's use of the Facility during the Championship Season as described above or with events previously scheduled at the Facility.

Further, it is expressly understood by the Parties that there is a practical need for the Club to advise Schaumburg of its intended schedule of uses of the Facility well in advance of those uses so that Schaumburg may have the opportunity to schedule other activities or events at the Facility. Accordingly, the Club shall furnish Schaumburg its League Schedule within ten (10) days of official receipt of the same by the Franchise, provided, however, Schaumburg shall not schedule any events for a calendar year until the League Schedule for that year is furnished to Schaumburg or the Club consents to said scheduling and said consent shall not be unreasonably withheld.

Notwithstanding the foregoing, (1) in no event shall the Club or Schaumburg permit any use of the Facility which causes or may cause any material damage to the professional baseball configuration or to the playing surface of the Facility which cannot be repaired at the expense of

the damaging party prior to the next scheduled Team Professional Baseball Game and (2) Schaumburg shall prohibit usage by any third party of the Team's Areas.

4. **MANAGEMENT OF FACILITY & REVENUE.** The Club shall utilize the Team Areas from which to act as Schaumburg's general manager of the Facility and shall be responsible for aiding Schaumburg in scheduling events subject to the rights of Schaumburg herein to schedule events.

For all Schaumburg or Schaumburg scheduled events ("Schaumburg Event"), the Club shall provide concession, operational and maintenance services by furnishing the personnel to operate the Facility and cleanup after the event, and the Club shall pay Schaumburg eighty percent (80%) of all net Net Profit derived from such event within thirty (30) days of such event. Provided, however, the Club shall not be required to schedule an event for which it must provide operational and maintenance services unless the Club is guaranteed by Schaumburg that the Club shall receive at least its actual cost of providing such services.

The Club shall be entitled to set ticket prices, charge and collect admission, participation, and related fees and charges in connection with its operation of any of its Home Games, Club Events, or other activities at the Facility.

5. **PARKING.** Schaumburg shall permit the Club to use the METRA Parking Lot, and the West Parking Lot adjacent to the Facility to accommodate persons attending, participating, or servicing any and all activities or events at the Facility, including Organized Baseball Games, Other Professional Baseball Games, and Non-Professional Baseball Uses conducted, sponsored, or permitted by the Club as is contemplated by this Agreement. Additionally, specifically

Schaumburg shall make available free of charge to the Club, an area immediately adjacent to the stadium located at the Facility and inaccessible to the public as a result of fences, walls, gates, or similar barriers, sufficient parking spaces for the Franchise's players and other personnel and press, radio, and television personnel, skybox patrons, and such other persons as may be designated for use of such paved spaces by the Club.

Schaumburg shall operate, control, maintain and clean the parking areas or areas at the Facility to the extent provided herein, and shall be entitled to retrieve and retain all parking revenues associated with all Facility events for which Schaumburg directly charges for parking.

Schaumburg agrees to consult periodically with the Club concerning fees to be charged by Schaumburg for parking at the Facility and Schaumburg shall notify the Club of any intended change of the fees to be charged for parking at the Facility not less than thirty (30) days before the date that such intended change shall become effective. Notwithstanding the foregoing, Schaumburg agrees that it shall not, without the Club's express written consent, charge more than \$2.00 per vehicle for patrons attending the Club's events at the Facility.

6. **CONCESSIONS.** Except as otherwise provided herein, Schaumburg shall permit the Club to act as the exclusive food, beverage, alcoholic beverage, and catering concessionaire for all activities or events held at the Facility for the entire term of this Agreement. Such concession items may include, but not be limited to, all foods, beverages, alcoholic beverages, candy products, and all other food and beverage items sold at Facility concession stands and through vendors at all activities or events held at the Facility for the entire term of this Agreement. Nothing herein shall be construed as granting the Club a liquor, beer or wine license.

The Club may utilize third parties to provide concession services as is appropriate for the conduct of the Club's business at the Facility. The Club shall notify Schaumburg in writing of its selection of any such third party arrangements well in advance of the commencement of operations by such third party.

The Club agrees with Schaumburg that all concessions and concession services shall be of a high quality commensurate with industry standards prevailing in facilities similar to the Facility. All items offered for sale by the Club or any third party at the Facility shall be sold at reasonable prices established by the Club which are plainly displayed.

It shall be the responsibility of the Club to purchase and maintain all equipment necessary for the operation and sale of concessions at the Facility during the entire term of this Agreement. The Club shall not be required to permit third parties to operate concession equipment at the Facility.

The Club or any agent of the Club shall provide concessions and concession services with a sufficient number of properly trained concession personnel to provide the concessions and concession services at those activities or events held at the Facility for which the Club provides operational and maintenance services. In addition, the Club agrees to provide a reasonable selection of quality items for purchase by those attending activities or events held at the Facility.

The Club shall use its best efforts to produce the maximum Gross Revenue possible without limiting the quality of products sold or services supplied at the Facility. Concession stands shall be open at such locations and during such hours as determined by the Club in its discretion. It is provided, however, that the Club shall exercise this discretion and authority in a reasonable manner and shall use its best efforts to base its requirements as to the number of

locations to be operated and the hours of service upon its best estimates of anticipated attendance and demand for concessions and concessions services.

Schaumburg shall permit the Club to act as the sole and exclusive concessionaire for novelty and souvenir items sold at the Facility, which shall include novelties, souvenir items, Organized Baseball souvenirs, and novelties, caps, equipment, wearing apparel, programs and the like.

The Club shall post in a conspicuous place inside each concession stand a neatly prepared price list of all articles offered for sale at such stand. The Club agrees to conduct concession sales in a clean, professional, and businesslike manner similar to operations in other comparable minor league baseball facilities. The Club may sell alcoholic beverages at all facility events, subject to obtaining the necessary licenses and complying with the applicable rules and regulations. The Club may begin the sale of alcoholic beverages at or after one and one half (1½) hours prior to the scheduled start of any activity or event at which the sale of alcoholic beverages shall be allowed in accordance with this Agreement, and may continue the sale of alcoholic beverages until the conclusion of such activity or event. The Club specifically understands and agrees to the foregoing restrictions on the sale of alcoholic beverages at the Facility notwithstanding any lack of similar restrictions in its license to sell alcoholic beverages at the Facility.

The Club agrees to abide by all municipal, county, state, and federal laws, ordinances, rules, and regulations and to obtain all necessary and proper licenses, permits, and authorizations for the conduct of its business at the Facility.

Notwithstanding the foregoing, Schaumburg reserves the right to sell or to allow third parties to sell souvenir and novelty items and concessions at the Facility during Schaumburg or Schaumburg sponsored events, provided the Club's permanent concession facilities are not being

operated by the Club at those Schaumburg sponsored or authorized activities or events held at the Facility or the Club has granted permission for the use of its concession equipment, which shall not unreasonably be withheld. In any event, Schaumburg may not without the Club's prior consent, sell any novelty or souvenir items which are or appear to be the Franchise's souvenirs, novelties, caps, equipment, wearing apparel, or programs, or which novelty or souvenir items carry the logo of the Franchise.

7. **ADVERTISING/SIGNS/BANNERS/SCOREBOARD/MARQUEE.** Schaumburg shall permit the Club to have the sole, exclusive, and absolute right to erect, install, or affix advertising material, signs, banners, or information at the Facility. Such right of the Club shall include the ability and authority to sell and collect all revenue for advertising space at the Facility at prices set by the Club in its discretion, including the ability and authority to place advertising materials, signs, banners, or information on the interior surface of the outfield fence and at other locations at upon, or within the Facility during the entire term of this Agreement. All signs, banners, and advertising materials shall conform with the Village sign ordinance. The Village shall, by amendment or variation of said ordinance, provide for the reasonable implementation of this Article 7. No political advertising shall be permitted at the Facility.

The Club shall provide and install at its own cost and expense a minor league quality scoreboard at the Facility at a location and by using a method of installation acceptable to Schaumburg, and the Club shall have the sole, exclusive, and absolute right to sell all advertising in connection with such scoreboard for the entire term of this Agreement.

For all of the foregoing, however, it is specifically provided that the kind, type, size, and location of all advertisements shall be in keeping with the character of the Facility and shall not

be offensive to Schaumburg, which shall have the authority to prohibit advertising which it deems offensive.

Subject to Article 15 herein, the Club shall have the right to advertise and use such other lawful means of soliciting business as it deems appropriate. The Club also shall have the right to erect signs at the Facility for the purpose of announcing Home Games and all other activities or events to be held or conducted at the Facility. The location and design of such signs at the Facility shall be approved in writing by Schaumburg and must conform to the terms of this Agreement.

Notwithstanding Article 2 herein, all revenue associated with the Facility "naming rights" shall become the property of Schaumburg, regardless of who procures or collects the same. However, the Club shall be entitled to, and shall be so paid by Schaumburg, twenty percent (20%) of all Facility naming right revenues as same is collected by Schaumburg.

Schaumburg shall have the right, at its expense and at no expense to the Club, to cover temporarily any advertising material, signs, banners, or information used or placed by the Club at the Facility which might or could be or is objectionable to any other user of the Facility. The act of covering temporarily any advertising material, signs, banners, or information shall not harm or deface any such advertising material, sign, banner, or information in any way whatsoever. Schaumburg shall repair immediately any material damage to any such advertising material, sign, banner, or information caused by Schaumburg, its agents, contractors or employees.

Subject to the Club's usage, Schaumburg shall be entitled to utilize the Facility public address system at reasonable times during the Club events, for the purpose of announcing Village or Park District events or projects.

8. **BROADCASTING, CABLE CASTING, TELECASTING.** Subject to Article 2 herein, the Club shall receive and retain all revenue, income, receipts, or benefits from whatsoever sources from the Club's broadcasting, cablecasting, or telecasting of any games played by the Franchise Team Professional Baseball Games or Professional Baseball Games sponsored by the Club. Schaumburg shall not participate, in any manner, in determining when or whether said games sponsored by the Club shall be broadcasted, cablecasted, or telecasted, and the Club shall have all rights with respect to the name including all rights pertaining to the contracting for the same. Schaumburg shall charge no special fees, permits, or hook-up expenses to the Club or its broadcasters, cablecasters, or telecasters. Schaumburg shall receive all broadcasting, cablecasting or telecasting revenue from all events sponsored by Schaumburg.

9. **HOME GAMES TO BE PLAYED AT FACILITY.** In addition to the Club Payments required to be made by the Club and as stated additional consideration for the Club's use of the Facility, the Club agrees that it shall schedule and play each and every one of its Home Games exclusively at the Facility during the entire term of this Agreement.

10. **TEAM NAME CHANGE/RELOCATION.** The Franchise retains the right to change its team name, but only with the express written approval by Schaumburg.

The Club warrants that the Franchise shall not relocate to any other facility or location for the Original Term or any Extension Term of this Agreement. In the event that the Franchise relocates, attempts to relocate, or give notice that it intends to relocate to another facility during any portion of the term of this Agreement, Schaumburg may, at its sole and exclusive option, choose any one of the following remedies, which the Club hereby agrees and consents to, among

any other remedy available to Schaumburg at law or in equity: (1) The Club shall immediately, without notice, owe Schaumburg the Facility Use Fee for every Operating Year or portion thereof remaining in the Original Term or any Extension Term in effect for this Agreement, which shall be due and payable by the Club, the Franchise, or any successor in interest or assignee thereof; of (2) Schaumburg or any person or entity designated by Schaumburg shall have the right to purchase the Franchise and assume the Club's rights and obligations under this Agreement for a purchase price equal to the average purchase price paid for the previous three (3) most recent sales of Northern League franchises prior to that time.

**11. OPERATING MAINTENANCE, CAPITAL MAINTENANCE, CAPITAL IMPROVEMENT.**

A. Operating Repair and Maintenance, Capital Repair, and Maintenance The Club shall clean and supply sanitation and housekeeping services and shall provide operating repair and maintenance all in a first class manner at and to the Facility at the Club's expense and at no expense to Schaumburg only for all activities or events held at the Facility which are conducted by the Club or for which the Club provides operational support for the entire term of this Agreement. "Operating Repair and Maintenance Costs" are defined as those costs which are ordinary and recurring expenses for current repair and maintenance which do not improve, restore or replace an Asset (but which repair and maintain it) all in accordance with generally accepted accounting principles. Notwithstanding the foregoing, Operating Repair and Maintenance does not include Capital Repair and Maintenance items, which are: (1) construction items, whether they relate to the initial construction of the Facility or any subsequent construction

work related to the Facility, (2) any item(s) related to the exterior or permanent structures at the Facility, and (3) any item(s) which cannot be repaired, but must be replaced.

Notwithstanding the above, the Parties agree to be responsible for sharing the costs and expenses of both Operating Repair and Maintenance Costs and Capital Repair and Maintenance Costs as follows throughout the entire term of this Agreement:

(1) The Club shall pay the first \$1,500 of Operating Repair and Maintenance Costs per Repair Item at issue.

(2) Schaumburg shall pay any amounts exceeding \$1,500 for Operating Repair and Maintenance Costs attributable to a particular Repair Item, and

(3) Schaumburg shall pay any and all amounts related to any Capital Repair and Maintenance Costs, regardless of the amount.

After every five (5) Operating Years, the \$1,500 amount referred to above shall be increased to reflect the average increase in the Consumer Price Index for the previous five (5) years.

The term Asset as used herein shall include grandstand, lighting, playing field, roof, seats, sprinkler systems, and walls.

Provided, however, notwithstanding the provisions of this Article 11:

1. Schaumburg shall provide all Operating Repair and Maintenance in connection with the lighting system;

2. Schaumburg shall provide all Operating Repair and Maintenance and Capital Repair and Maintenance for parking areas.

Schaumburg shall provide the Capital Repair and Maintenance at and to the Facility only, and not to any of the Club's property or equipment of any kind of nature whatsoever, in a first

class manner at Schaumburg's expense and at no expense to the Club; Schaumburg shall provide all such Capital Repair and Maintenance within a reasonable period of time after the same shall become necessary. "Capital Repair and Maintenance Costs" are defined as all costs other than operating, repair and maintenance costs as defined above, all in accordance with generally accepted accounting principles. Schaumburg will coordinate any Capital Repair and Maintenance projects with the Club to insure minimum interruption with the Club's activities.

The Club shall prepare the playing field for play at its own expense, including but not limited to, the following:

- a. Dragging, raking and edging non-turf areas;
- b. Chalking boundary lines;
- c. Installing bases;
- d. Fertilizing and irrigating;
- e. Grading and filling non-turf areas such as base paths, pitcher's mound, home plate area and warning tracks, and;
- f. Placing tarpaulins on all specific areas as necessary.
- g. Repairing or replacing any damaged turf areas unless such damage turf area is damaged by Schaumburg or by any third party sponsored by Schaumburg.
- h. Mowing and cutting grass.

Notwithstanding anything to the contrary contained herein, the Club shall bear the cost and responsibility for any and all Capital Repair and Maintenance Costs necessitated from acts or omissions committed by the Club or any invitee of the Club. The Club and Schaumburg shall meet, when necessary, to resolve any dispute regarding whether damage to the Facility which may generally require Capital Repair and Maintenance Costs was caused by the Club or the

Club's invitees, and if so caused, the Club shall be responsible for the costs of such repair or maintenance.

In general, when obligated to do so by the terms of this Agreement, the Club shall keep the Facility clean and neat and shall provide sanitation and housekeeping services necessary to do so in accordance with the terms of this Agreement. Removal of all refuse resulting from the use of the Facility by the Club or by any third party using the Facility with the approval of the Club in a manner consistent with this Agreement shall be the responsibility of the Club.

**B. CAPITAL IMPROVEMENTS.** The Club shall have the right, from time to time, at its own expense, to make all such capital alterations and improvements to the Facility, as shall be reasonably necessary for the Club's use of the Facility, in the Club's judgment, provided that prior to the commencement of any capital alteration of any improvement, Schaumburg shall have approved, in all cases, in writing, any plans and specifications which shall have been submitted and delivered by the Club to Schaumburg for such approval. If within sixty (60) days of receipt of such plans, Schaumburg shall not have given the Club notice of disapproval thereof, then the plans and specifications shall be deemed approved by Schaumburg. In all of these regards, the Club shall comply with all permitting requirements.

At the termination of this Agreement, the Club agrees to return the Facility to its original or subsequently improved condition, ordinary wear and tear expected, and to return to Schaumburg in good working condition, ordinary wear and tear expected, all equipment and property of Schaumburg, after inspection of the Facility, which inspection shall be made jointly by Schaumburg and the Club. Promptly after such inspection at the termination of this Agreement, the Club shall pay Schaumburg any damages due to Schaumburg for damage to the

Facility, or to Schaumburg's property, ordinary wear and tear expected. All buildings and other permanent improvements made, placed or constructed at the Facility or the parking area or areas shall be deemed to become a part of the realty and to become the property of Schaumburg, except moveable property as described below, and the Club shall peaceably and quietly surrender the same, together with the Facility, to Schaumburg upon, but not prior to, the termination of this Agreement. If the Club is not in default under this Agreement, the Club shall have the right upon the termination of this Agreement, within thirty (30) days thereafter, to remove from the Facility all moveable property, including but not limited to all concession equipment, and which is not owned by Schaumburg, and all property not so removed shall be deemed abandoned by the Club to the ownership of Schaumburg. The Club shall repair any damage caused by such removal of property. The Club shall not remove any property which was placed, constructed or affixed at or on the Facility as a replacement or addition of property which was initially owned by Schaumburg.

12. **UTILITIES.** The Club shall pay all monthly utility service charges for all utilities furnished to the Facility, for all events and activities held at the Facility which are conducted or sponsored by the Club, including, but not limited to, electricity, sewage, water, garbage, trash removal, natural gas, telephone, and irrigation water for the playing field irrigation system. Schaumburg shall reimburse the Club for the reasonable cost of electricity, in an amount to be mutually agreed upon between Schaumburg and the Club, supplied to the Facility for all events and activities held at the Facility which are sponsored by Schaumburg or by third parties designated by them.

13. **SECURITY.** The Club shall provide all security inside the Facility, for all events and activities held at the Facility which are conducted by the Club or for which the Club provides operational support including, but not limited to, all Home Games. The Club specifically agrees to provide adequate security personnel as is appropriate for the size of the crowd in attendance at all events or activities held or conducted by the Club at the Facility. The Club specifically agrees that in no event shall there be less than two (2) off-duty law enforcement officers (from police departments other than the Schaumburg Police Department) present at any event or activity which the Club holds or conducts at the Facility. Further, the Club agrees that it shall meet with Schaumburg as often as necessary, but in no event less than once per Operating Year, to agree upon a set of minimum standards based upon the type of event or activity scheduled to be held at the Facility by the Club and the anticipated number of off-duty law enforcement officers (in addition to the minimum number of two (2) required by this Agreement) required by Schaumburg to be present at the Facility for security purposes.

Such security personnel shall be provided by the Club and shall be on duty at the Facility at or before one (1) hour prior to the scheduled start of all events and activities held at the Facility which are conducted or sponsored by the Club and such security personnel shall remain at the Facility until the later of at least thirty (30) minutes after the end of any event or activity held or conducted by the Club at the Facility or until the parking area or areas is or are cleared of substantially all vehicles.

14. **THE CLUB'S PERSONNEL.** The Club shall hire and be responsible for and pay for ground crews, maintenance staff, and all other personnel necessary for the ongoing cleaning, repair, and maintenance of the Facility. The Club shall also hire and be responsible for and pay

for all other personnel necessary for the conduct of business at all events or activities held or conducted for which the Club is responsible at the Facility. Such personnel shall include, but are not limited to, ushers, ticket takers, concession workers, first-aid attendants, and other related personnel. The Club's personnel shall be responsible for maintaining their respective work areas in a neat and orderly fashion. The Club agrees to use its best efforts to recruit a labor pool from the local population.

15. **ADHERENCE TO LAW.** The Club shall adhere to and shall not in any manner, directly or indirectly, violate the laws, ordinances, rules, or regulations of any federal, state, county, city, or other governmental authority or agency in connection with the use and occupancy of the Facility and the parking area or areas under the terms of this Agreement.

16. **TAXES & LICENSES.** The Club shall pay all lawful taxes including its proportionate share of charges on its business operations, as well as on all goods, merchandise, fixtures, appliances, equipment and property owned by it and located at the facility. The Club acknowledges that the Facility and real estate thereunder (collectively, the "Subject Property") are currently exempt from all taxes, including, but not limited to, real estate taxes. The Parties intend that the Subject Property remain exempt from real estate and/or leasehold taxes, and that no such taxes should be assessed as a result of the use granted hereunder. In the event, however, (a) this Agreement or the rights granted under this Agreement, (b) any Sub-License Agreement or other grant of use or assignment by the Club and/or (c) the use and/or operations of the Club or any of its sub-licensees, employees, agents, and/or assignees, results in a full or partial loss of such real estate tax exemption or in the assessment of real estate taxes and/or a tax on any

leasehold and/or sub-leasehold interest or any alleged leasehold and/or sub-leasehold interest, or any other tax, then the Club agrees to pay Schaumburg its proportionate share of the amount of any such tax, but reserves the right to appeal such assessment, prior to the due date therefore for each tax year this Agreement remains in effect, including any and all extensions and/or renewals thereof.

17. **USE/QUIET ENJOYMENT.** During the Club's use and occupancy hereunder and for so long as the Club is not in default, the Club shall have and be entitled to the quiet enjoyment with respect to the use and occupancy of the Facility and the privileges herein granted without interruption or interference by any person including, specifically, Schaumburg, except to the extent that certain rights to use the Facility, or any portion of it, may be reserved to Schaumburg in accordance with this Agreement.

While the Club is granted the use of the Facility for its purposes as specified in this Agreement, Schaumburg, excluding Team's Areas, has the right to schedule other activities or events at the Facility when the Club, or any third party using the Facility with the approval of the Club in a manner consistent with this Agreement is not scheduled to use the Facility, subject to the provisions of this Agreement.

There shall be no use of personal property owned or controlled by the Club without the Club's prior written consent.

18. **ASSIGNMENT.** The Club shall not assign this Agreement or any portion of it unless such assignment is specifically permitted and authorized by this Agreement, or with the written consent of Schaumburg, which consent may be withheld by either the Village or the Park District

in its sole discretion. Furthermore, in the event the Club sells, conveys, or transfers the ownership of the Franchise, such third party purchaser shall be required to assume and be obligated by and to this Agreement. Any such sale, conveyance or transfer of the Franchise by the Club shall be subject to the approval of Schaumburg, which shall not be unreasonably withheld.

Subject to the written consent of the Club, which shall not be unreasonably withheld, Schaumburg may assign all of its rights and obligations hereunder to a third party.

19. HOLD HARMLESS / INDEMNITY / LIABILITY INSURANCE:  
CONDEMNATION.

A. HOLD HARMLESS/INDEMNITY The Club shall defend, indemnify, and hold harmless Schaumburg against any and all claims which Schaumburg and each of its respective officials, its officers or employees may hereafter be liable for, suffer, incur or pay arising under any applicable laws and resulting from or arising out of any act, activity or violation of any applicable laws on the part of the Club, its assigns, subleases, agents, officers, or employees, and against any and all claims which Schaumburg and each of its respective officials, officers, or employees may hereafter be liable for, suffer, incur or pay resulting from or arising out of any handling, storage, treatment, transportation, disposal, release or threat of release of hazardous waste or hazardous substances by the Club or its sublessees, agents, officers, or employees from, on or at the Facility. The Club shall not be responsible for any preexisting conditions at the Facility.

Further, the Club agrees to indemnify and hold Schaumburg harmless for and against damages for injuries (including death) to persons or damage to property arising out of the Club's use or occupancy or management of Facility, whether due to its own default or negligence, or the negligence of its assigns, subleases, agents, officers, or employees, defective conditions of the premises, negligence of the Schaumburg, or otherwise; provided however, that the Club shall not be liable for any damages due solely to affirmative negligent acts of Schaumburg committed in the performance by Schaumburg of any work at the Facility or the parking area or areas. The Club agrees to indemnify Schaumburg fully against any damages, fines, penalties, or forfeitures of any kind which may be imposed or levied against Schaumburg as the result of the Club's violation or failure to comply with any valid law, ordinance or regulation of the United States, State of Illinois, or the Village, including the Federal Occupational Safety and Health Acts of 1970 as amended from time to time, or any Federal regulation adopted pursuant thereto.

The Club shall not be liable for any damage due to the intentional or negligent acts of Schaumburg, its agents, contractors, or employees committed in the performance of any work of activity at the Facility; provided, however, that any law enforcement personnel employed by the Club to provide security pursuant to this Agreement shall not be considered agents, contractor or employees of Schaumburg.

Furthermore, the Club shall not be liable for any damages due to the intentional or negligent acts of any third parties visiting or using the facility for events held at the facility for which the Club does not provide operational, concession and maintenance services.

For the purposes of this Agreement, "claims" include and mean all actions, causes of action, whether common law or statutory, remedies, demands, out-of-pocket costs, liability, charges, suits, judgments, expenses, damages, incidental or consequential damages, cleanup

costs, civil penalties, attorneys' fees both at trial and upon appeal, litigation expenses, abatement costs, abatement and corrective injunctive relief, injunctive relief requiring removal and/or remedial action, all costs of removal or remedial action, and damages to natural resources.

B. CLUB'S INSURANCE The Club shall secure, pay for, and maintain during the term of this Agreement the following insurance coverages:

(a) WORKERS' COMPENSATION Insurance covering all employees meeting statutory limits in compliance with all applicable state and federal laws. The Workers' Compensation coverage must include Employer's Liability with a minimum limit of \$1 million for each accident.

(b) COMPREHENSIVE GENERAL LIABILITY Coverage shall have minimum limits of \$3 million per person and \$5 million dollars per occurrence, combined single limit for Bodily Injury Liability and \$250,000 Property Damage Liability. This Comprehensive General Liability coverage shall include Premises and Operations, Broadform Property Damages, XCU Coverage, Independent Contractors, Products and Completed Operations, and Contractual Liability. This Comprehensive General Liability Coverage Policy shall be endorsed to include and cover Liquor Liability.

(c) SCHAUMBURG TO BE AN ADDITIONAL NAMED INSURED The Club shall require and cause its insurer or insurers to list Schaumburg as an Additional Named Insured on the Comprehensive General Liability Policy.

(d) INSURANCE POLICIES/CERTIFICATES OR INSURANCE Current valid insurance policies meeting the requirements herein above identified in this Article 19 shall be maintained during the term of this Agreement. The Club shall furnish

copies of all policies to Schaumburg. The Club shall cause Renewal Certificates to be sent to Schaumburg thirty (30) days prior to the expiration date of any and all policies. Also, there shall be a thirty (30) day written notification to Schaumburg in the event of the cancellation or of the modification of any insurance coverage required by this Agreement.

Current Certificates of Insurance evidencing that the required insurance provision of this Article 19 have been met and that said policies are in full force and effect shall be filed with Schaumburg throughout the term of this Agreement.

(e) IF THE CLUB FAILS TO PAY PREMIUM In the event that the Club fails to pay the premium or premium on any or all of the aforementioned policies in this Article 19 when the same shall become due and owing, Schaumburg shall have the option to purchase a replacement insurance policy or policies or to continue the current insurance policy or policies, all at the expense of the Club and not at the expense of Schaumburg.

C. LOSS If all or any significant portion of the Facility is damaged or destroyed by fire or other casualty, Schaumburg shall repair and rebuild the Facility with reasonable diligence to the condition immediately before such loss or the condition required by law, whichever is greater, with such repair and rebuilding to be completed as soon as is reasonably possible giving due attention to the Championship Season after such fire or other casualty occurs and in any event not later than three hundred fifty (350) days after such fire or other casualty occurs. If in the good faith judgment of the Club there is substantial interference with the operation of the Club's activities, or use of the Facility requiring the Club to use temporarily other facilities, there shall be an abatement of all moneys due hereunder from the Club to Schaumburg for the period

of such interference only. It is specifically understood by and between the Parties that during the period of such interference, the Club shall have the right to schedule its activities or events at another facility and the obligations of the Club pursuant to this Agreement shall be abated during such interruption. If in the good faith judgment of the Club, the facility is not, cannot, or will not be restored to the condition immediately before such casualty or the condition required by law, whichever if the greater, within three hundred fifty (350) days after the fire or other casualty occurs, this Agreement may be voided by the Club and be of no further force or affect and neither Party shall have any claim whatsoever against the other Party as a result hereof.

D. CONDEMNATION

(a) If the Facility is taken by any public authority pursuant to the power of eminent domain, this Agreement shall terminate as of the date possession is taken by the public authority.

(b) If part of the Facility is taken pursuant to the power of eminent domain and, if the reasonable opinion of either Schaumburg or the Club, it is not economically feasible to continue this Agreement, either Party may terminate this Agreement under the following terms and conditions:

(1) Such termination by either Party shall be made by written notice to the other given not later than ninety (90) days after the date possession is taken by the public authority.

(2) Termination is effective thirty (30) days after such notice is given or the date possession is taken, whichever is later.

(3) If neither Schaumburg nor the Club elects to terminate this Agreement, or until termination is effective as the case may be, Club

Payments shall be abated in the same proportion as the fair market value of the portion of the premises taken bears to fair market value of the whole of the premises.

(4) Schaumburg shall make such repairs or alterations, if any, as are required to render the remainder of the premises useable.

(c) All damages awarded for the taking or damaging of all or any part of the premises shall be the property of Schaumburg. The Club hereby assigns to Schaumburg any and all claims to such award. However, nothing in this Agreement shall be construed as precluding the Club from asserting any claim the Club may have against the condemning authority to disruption or relocation of the Club's business or for the Club's property located on the premises.

20. **PERMITS.** The Club, at its sole expense and at no expense to Schaumburg, shall comply with all laws, orders, rules and regulations of federal, state, county, city, and other competent Governmental regulatory authorities, and with any direction of any public officer pursuant to law, which shall impose any duty upon the Club with respect to the Facility.

The Club, at its sole expense and not at the expense of Schaumburg shall obtain all licenses or permits which may be required for the conduct of its business within the terms of this Agreement. To the extent permitted by law, Schaumburg shall assist and cooperate with the Club in securing such licenses or permits.

21. **TERMINATION.** This Agreement shall terminate at the end of its terms as is set forth at Article 1 of this Agreement, or earlier as specifically provided in this Agreement.

22. **DEFAULT.**

A. (1) If Schaumburg shall default in any of its obligations under this Agreement, the Club shall provide notice of default to Schaumburg and afford Schaumburg a grace period of thirty (30) days to cure such default; provided, however, that, if the default in question is a non-monetary default which cannot be cured within such thirty (30) days period, then Schaumburg shall be afforded such additional time as shall be required reasonably to cure such default if Schaumburg;

(i) has commenced the appropriate cure within such initial thirty (30) days period, and;

(ii) thereafter proceeds with reasonable diligence to cure such default.

(2) If Schaumburg shall be in default hereunder beyond the expiration of the thirty (30) days grace period stated above the Club shall have the right to:

(i) cure such default on behalf of Schaumburg, in which Schaumburg shall reimburse immediately the Club for all sums paid to effect such cure together with interest thereon at the rate of the lower of the Illinois statutory judgment rate of interest or twelve percent (12%) per annum, plus reasonable attorneys' fees;

(3) The remedies described in this Article 22 shall be in addition to any other remedy that the Club may have at law or in equity, including without limitation:

(i) An action to recover moneys then due and owing from Schaumburg together with interest thereon at the rate of the lower of the Illinois statutory judgment rate of interest or twelve percent (12%) per annum

from the date such moneys were due to the date of judgment, plus reasonable attorneys' fees; and

(ii) an action for specific performance of non-monetary covenants and agreements on the part of Schaumburg, provided that in no event shall Schaumburg be liable for consequential or punitive damages suffered by the Club, and the Club shall in all events seek to mitigate its damages to the extent required by law.

B. (1) If the Club shall default in any of its obligations under this Agreement, Schaumburg shall provide notice of default to the Club and afford the Club a grace period of ten (10) days after receipt of notice to cure such default; provided, however, that if the default in question is a non-monetary default which cannot be cured within such ten (10) day period, then the Club shall be afforded such additional time as shall be required reasonably to cure such default if the Club:

- (i) has commenced the appropriate cure within such initial period; and
- (ii) thereafter, proceeds with reasonable diligence to cure such default.

(2) If the Club shall be in default hereunder beyond the expiration of the applicable grace period stated above, or if in the good faith judgment of Schaumburg the existence of such default constitutes an immediate danger to property or to the safety, or health of persons, Schaumburg shall have the right to:

- (i) cure such default on behalf of the Club, in which event the Club shall immediately reimburse Schaumburg for all sums paid to effect such cure together with interest thereon at the rate of twelve percent (12%) per annum, plus reasonable attorneys' fees;

(3) The remedies heretofore described in this Article 22 shall be in addition to any other remedy that Schaumburg may have, including without limitation:

(i) An action to recover moneys then due and owing from the Club together with interest thereon at the rate of twelve percent (12%) per annum, from the date such moneys were due, plus reasonable attorney's fees; and

(ii) An action for specific performance of non-monetary covenants and agreements on the part of the Club, provided that in no event shall the Club be liable for consequential or punitive damages suffered by Schaumburg, and Schaumburg shall in all events seek to mitigate its damages to the extent required by law.

C. Notwithstanding anything to the contrary contained herein, in the event that the Club has committed five (5) or more non-monetary defaults in any twelve (12) consecutive month period during the term of this Agreement or any extension thereof, Schaumburg shall have the absolute right, but not the obligation, to immediately terminate this Agreement, without regard to whether any or all of such defaults were previously cured by the Club.

## 23. **GENERAL PROVISIONS.**

A. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

B. The covenants, terms, conditions, provisions and undertakings of this Agreement, or in any extensions thereof, shall extend to and be binding upon the successors and assigns of

the Parties hereto as if they were in every case named and expressed and wherever reference is made to either of the Parties hereto, it shall be held to include and apply also to the successors and assigns of such Party as if in each and every case so expressed.

C. The Parties agree to execute and deliver any instruments in writing, necessary to carry out any agreement, term, condition or assurance in this Agreement, whenever the occasion shall arise and request for such instrument shall be made.

D. This Agreement shall constitute the full and complete understanding between the Parties for the operation and management of the Facility and the Term beginning May 15, 1999. There are no oral understandings, terms or conditions and neither Party has relied on any representation, express or implied, not contained in this Agreement. All prior understandings, terms or conditions are deemed to merge in this Agreement, and this Agreement cannot be changed or supplemented orally, but only by an agreement in writing and signed by the Parties to this Agreement.

E. If any provisions of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect unless so construing the Agreement would produce an inequitable result.

F. The Parties at all times during the term of this Agreement shall act and deal in good faith with each other.

24. **NOTICES.** Any notice required to be given hereunder shall be in writing and mailed, postage prepaid, by U.S. Certified Mail, Return Receipt Requested, addressed to the Parties as follows unless a different address is later designated by either Party under this notice provision:

**For Notices to THE CLUB:**

Richard F. Ehrenreich

Schaumburg Professional Baseball, L.L.C.

Alexian Field

1999 S. Springinsguth Road

Schaumburg, IL 60193

Fax: (847) 891-6441

Rick Rungaitis

Schaumburg Professional Baseball, L.L.C.

Alexian Field

1999 S. Springinsguth Road

Schaumburg, IL 60193

Fax: (847) 891-6441

**For Notices to SCHAUMBURG:**

Village President

Village of Schaumburg

101 Schaumburg Court

Schaumburg, IL 60193-1899

Fax: (847) 895-7806

Village Manager

Village of Schaumburg

101 Schaumburg Court

Schaumburg, IL 60193-1899

Fax: (847) 923-4467

President

Schaumburg Park District Board

235 East Beech Drive

Schaumburg, IL 60193

Fax: (847) 985-2114

Director

Schaumburg Park District

235 East Beech Drive

Schaumburg, IL 60193

Fax: (847) 985-2114

**with a copy sent to:**

Jack Siegel, Esq.

Alzheimer & Grey

10 South Wacker Drive

Suite 4000

Chicago, IL 60606

Fax: (312) 715-4800

Bryan E. Mraz, Esq.

Bryan E. Mraz & Associates

111 East Irving Park Road

Roselle, IL 60172

Fax: (630) 529-2019

All notices shall be deemed received seven (7) business days after being mailed or earlier upon proof of actual receipt.

All consents, approvals, or permissions required to be obtained in accordance with this Agreement shall be in writing. With respect to consents, approvals, or permissions, provided by the Club, consents, approvals or permissions, shall be duly given, unless otherwise specified when they are given by the General Manager of the Franchise. With respect to consents, approvals or permissions, provided by Schaumburg, consents, approvals or permissions, shall be duly given, unless otherwise specified, when they are given by any officer of Schaumburg authorized to do so.

25. **COMMITMENT TO EQUAL OPPORTUNITY EMPLOYMENT PRACTICES.**

The Club shall abide by all Federal, State, and local equal opportunity employment practices.

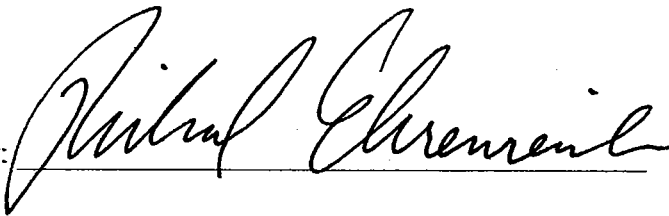
26. **TIME IS OF THE ESSENCE.** In all matters concerning or affecting this Agreement,

time is of the essence.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in several counterparts, each of which shall constitute an original and all of which, taken together, shall constitute a single instrument, by the appropriate officials and the necessary seals to be affixed thereto on this 25<sup>th</sup> day of September, 2002.

**THE CLUB:**

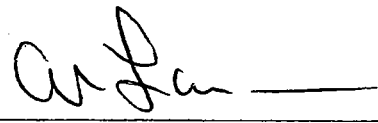
**SCHAUMBURG PROFESSIONAL BASEBALL, L.L.C.**

By: 

Its: Managing Owner

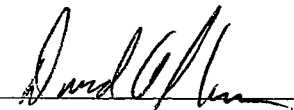
**SCHAUMBURG:**

Village of Schaumburg

By: 

Its: Village President

Schaumburg Park District

By: 

Its: President

# **EXHIBIT 1**



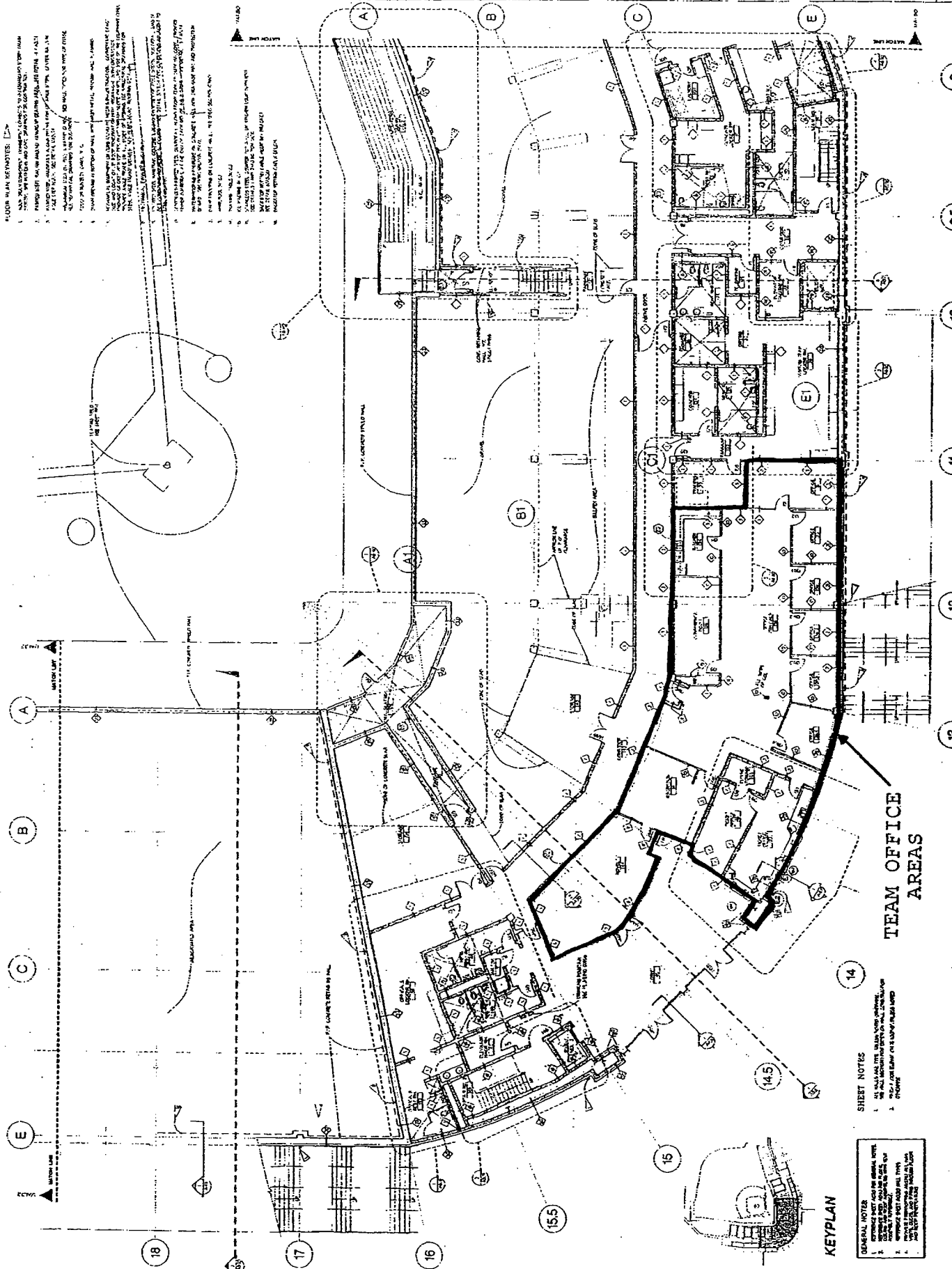
**SINK COMBS DETAILERS**

DATE: 06/29/05  
 DRAWN BY: J. L. ...  
 CHECKED BY: ...  
 PROJECT NO.: ...

**Schaumburg  
Baseball Park**

**Field Level  
Area 2  
Floor Plan**

Drawn by



- FLOOR PLAN REVISIONS:**
1. REVISED TO SHOW THE LOCATION OF THE SINK COMBS DETAILERS.
  2. REVISED TO SHOW THE LOCATION OF THE SINK COMBS DETAILERS.
  3. REVISED TO SHOW THE LOCATION OF THE SINK COMBS DETAILERS.
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  17. REVISED TO SHOW THE LOCATION OF THE SINK COMBS DETAILERS.
  18. REVISED TO SHOW THE LOCATION OF THE SINK COMBS DETAILERS.

- SHEET NOTES**
1. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  2. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  3. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.

- GENERAL NOTES**
1. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  2. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  3. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  4. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.
  5. THE SINK COMBS DETAILERS ARE TO BE INSTALLED AS SHOWN ON THIS PLAN.

**KEY PLAN**

**TEAM OFFICE AREAS**



SINK COMERS DETAILERS

12000 Highway 100, Suite 100  
Dallas, Texas 75243  
Phone: (214) 343-1111  
Fax: (214) 343-1112

Project No.	105
Client	Schaumburg Baseball Park
Architect	Sink Comers Detailers
Scale	1/8" = 1'-0"
Date	10/1/88
Drawn	...
Checked	...
Notes	...

Schaumburg  
Baseball Park

Suite Level  
Floor Plan

Checked by  
...

