

**Construction and Use Agreement Modification
and
Assignment and Assumption Agreement**

THIS CONSTRUCTION AND USE AGREEMENT MODIFICATION ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of the _____ day of _____, 2012 is by and among Okolona Little League, Inc., a Kentucky corporation in the process of dissolution ("OLL"), Okolona Baseball, Inc., a Kentucky corporation ("OBI"), and The Jefferson County Board of Education, operating as the Jefferson County Public Schools ("JCPS").

WHEREAS, OLL and the JCPS entered into a Construction and Use Agreement dated as of July 13, 1998, a copy of which is attached as Exhibit A to this Agreement (the "1998 Agreement"), under which OLL agreed to construct certain athletic fields, spectator seating, a concession/meeting building and other amenities (the "1998 Facility") on the premises of Southern High School ("Southern") and the JCPS agreed that OLL would have the right to use the 1998 Facility for the purpose of operating an athletic facility providing baseball and softball, on a non-discriminatory basis, for the children of Okolona; and

WHEREAS, OLL and the JCPS desire to amend the 1998 agreement to conform to the actual conditions of use of the athletic facility since 1998; and

WHEREAS, OLL and the JCPS entered into an Agreement dated as of April 22, 2002, a copy of which is attached as Exhibit B to this Agreement (the "2002 Agreement"), under which OLL agreed to construct a building to be used as a batting cage (the "Batting Cage") on the premises of Southern and the JCPS agreed that OLL would have the right to use the Batting Cage for the same purpose as the 1998 Facility as amended; and

WHEREAS, OLL with the consent of JCPS constructed an addition to the Batting Cage (the "2005 Addition") and the JCPS agreed that OLL would have the right to use the 2005 Addition for the same purpose as the 1998 Facility; and

WHEREAS, OLL and JCPS failed to either document their agreement with respect to the 2005 addition or such documentation has been lost, OLL and JCPS desire to ratify their agreement as set forth in Exhibit C; and

WHEREAS, OLL was administratively dissolved as a Kentucky corporation by the Secretary of State of Kentucky on September 10, 2011, but OLL continues in existence as a corporation for the purpose of winding up and liquidating under KRS 14A.7-020; and

WHEREAS, OBI desires to continue the programs for the community of Okolona that have been provided by OLL in and through the 1998 Facility, the Batting

Cage and the 2005 Addition (collectively, the "Baseball Facilities"), and OBI therefore desires to assume in writing the liabilities and obligations of OLL under the 1998 Agreement as amended, the 2002 Agreement and the 2005 Agreement (collectively, the "JCPS Agreements"), and to confirm the intent and scope of certain provisions of the JCPS Agreements for the benefit of the JCPS; and

WHEREAS, OLL desires to assign the JCPS Agreements to OBI in connection with the winding up and liquidation of OLL under KRS 14A.7-020.

NOW THEREFORE, in consideration of the premises and the covenants and conditions set forth in this Agreement, and intending to be legally bound, OLL and OBI agree as follows:

[1] Assignment. OLL assigns to OBI all of OLL's rights, title and interest in and to the JCPS Agreements.

[2] Assumption. OBI accepts the foregoing assignment and assumes and agrees to perform and discharge [a] OLL's liabilities and obligations to the JCPS under the JCPS Agreements, and [b] all liabilities and obligations arising out of or resulting from OBI's use of the Baseball Facilities after the date of this Assignment and Assumption Agreement.

[3] 2005 Agreement. JCPS and OLL hereby memorialize their agreement with respect to the 2005 Addition as set forth in Exhibit C.

[4] Modification. Paragraph 3 of the 1998 Construction and Use Agreement is hereby amended by replacing the phrase "children of Okolona" with the phrase "Okolona community". Except as amended herein, all terms and conditions of the 1998 agreement are in full force and effect.

[5] Agreements of OBI. OBI acknowledges and agrees, for the benefit of the JCPS as provided in Section [10] of this Agreement, that [a] the "Facility" as defined in the 1998 Agreement shall include the 1998 Facility, the Batting Cage and the 2005 Addition, and [b] OBI's use of the Facility under the JCPS Agreements shall be in compliance with all terms and conditions of the JCPS Agreements, and shall also be in compliance with the terms of the JCPS Facility Use Policy as currently in effect, and as it may be amended

[6] Governing Law. This Assignment and Assumption Agreement, and the respective rights, duties and obligations of the parties under this Assignment and Assumption Agreement, will be governed by and construed in accordance with the laws of Kentucky, without giving effect to the principles of conflicts of laws.

[7] Entire Agreement. This Agreement, including the attached Exhibits, contains the entire Agreement of JCPS, OLL and OBI and supersedes any previously written or verbal agreements concerning the subject matter of this

Agreement. No terms, conditions, understandings, agreements to amend, modify, vary, supplement or explain any provision of this Agreement shall be effective unless contained in a writing signed by OLL and OBI.

[8] Severability. Each provision of this Agreement is severable. If any term is held invalid or unenforceable by a court of competent jurisdiction, the ruling will not affect the remainder of this Agreement, and the parties will negotiate in good faith to substitute a valid and enforceable provision that reflects the intent and has the economic substance of the invalid or unenforceable provision.

[9] Headings. The headings assigned to the sections of this Agreement are for convenience only and shall not limit the scope and applicability of the sections.

[10] Successors and Assigns. The terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties to this Agreement and their respective successors and permitted assigns.

[11] Counterparts. This Agreement may be executed in two or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute one and the same instrument. For this purpose, a signature sent by a party or signatory and received by other parties or signatories by facsimile transmission (whether by telecopier or electronic mail) shall have full force and the same effect as an original signature.

[12] Third Party Beneficiary. OBI acknowledges and agrees that the JCPS is an intended third party beneficiary of this Agreement, and that the JCPS has the right enforce the JCPS Agreements against OBI.

IN WITNESS WHEREOF, JCPS, OLL and OBI have caused this Construction and Use Agreement Modification and Assignment and Assumption Agreement to be duly executed and delivered as of the date first written above.

OKOLONA LITTLE LEAGUE, INC.

By: Cliff Kersh
Title: Director

OKOLONA BASEBALL, INC.

By: Cliff Kersh
Title: President

JEFFERSON COUNTY BOARD OF EDUCATION. operating as the
JEFFERSON COUNTY PUBLIC SCHOOLS

By: _____
Title: _____