

## **LAGUNA SECA RECREATION AREA “LSRA”**

### **Facility Use Agreement**

This Master Facility Use Agreement (“Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2021 by and between the COUNTY OF MONTEREY, hereafter referred to as “COUNTY”, and Velocity International, LLC, a California limited liability company, owner and operator of the “Sonoma SpeedFest”, hereafter referred to as the “Series”, relative to a vintage racing event at the WeatherTech Raceway Laguna Seca located at Laguna Seca Recreation Area (LSRA) and related facilities. Series and COUNTY may be referred to herein as “party”, or collectively as the “parties”.

WHEREAS, COUNTY owns and operates the WeatherTech Raceway Laguna Seca located at Laguna Seca Recreation Area (LSRA); and

WHEREAS, Series desires to utilize the WeatherTech Raceway Laguna Seca located at Laguna Seca Recreation Area (LSRA) facility to promote and conduct a vintage racing event; and

WHEREAS, COUNTY is willing to grant to Series a license to use the LSRA and all its areas and facilities, except for ranges, maintenance, and office facilities, or as noted in this Agreement.

WHEREAS, the Parties desire to enter into a Facility Use Agreement to produce a vintage racing event.

NOW, THEREFORE, the Parties agree as follows:

### **AGREEMENT**

#### Articles of Definitions:

1. “Agreement” means this Facility Use Agreement.
2. “Army Deed” means that certain quitclaim deed from the United States Government to County dated October 31, 1974 and recorded in Monterey County Official Records at Reel 944 Page 1077, conveying LSRA to County, as amended on August 6, 1986 and recorded in Monterey County Official Records at Reel 2012 Page 235, and on January 21, 2000 by Document No. 2000082485, Monterey County Official Records.
3. “County” means the County of Monterey.
4. “Series” means Velocity International, LLC, a California limited liability company, owner and operator of the “Sonoma SpeedFest”.

5. "County Representative" means the person designated by the County Administrative Officer for contract management purposes as described in Section XIII.
6. "LSRA" means the WeatherTech Raceway Laguna Seca located in the Laguna Seca Recreation Area.
7. "Party" means County or Series singularly; "Parties" means County and Series jointly.
8. "Manager". In its discretion, the County may designate a Manager to act on behalf of the County with respect to the obligations and responsibilities set forth in this Agreement. Manager appointed by County may operate, manage, and maintain the facility for and on behalf of County. Series acknowledges that a County appointed Manager is the County's onsite manager for the facility and Series shall follow direction from Manager regarding daily use and operations of the facility.

### **SECTION I – USE OF FACILITIES**

- A. Series will be allowed to use the entire Laguna Seca Recreation Area facility (hereinafter referred to as "LSRA"), excluding ranges, maintenance and office facilities, for a vintage racing event to be held on Thursday, Friday, Saturday and Sunday, as set forth in Section II, below. It is anticipated that the maximum attendance is projected to be 15,000 paid persons per day (including campers). If this number is expected to exceed 15,000, Series agrees to provide COUNTY with a written notification within twenty-four (24) hours.
- B. Under this Agreement structure, the COUNTY shall provide the necessary Track Personnel for the daily preparations required for on track events to include track cleaning prior to the track being released to Series.
- C. In addition to the actual days that the vintage racing event is being held, as set forth in Section II below, Series will have access to the indicated LSRA facilities according to the schedule below.
  - 1) The Lakebed Special Event Area (including Hospitality Island, Turn 2 parking and Turn 4 shelf) shall be available to Series beginning at 8:00am on November 3, 2021 for set-up and such availability shall conclude and terminate at 5:00pm on November 16, 2021. Series shall not disrupt any other pre-rented track or paddock activities during this period.
  - 2) Parking will be made available at Red 9, Wolf Hill and Blue 2. Areas shall be available to Series at 8:00am on November 8, 2021 for set-up and such availability shall conclude and terminate at 5:00pm on November 16, 2021. Series shall not disrupt any other pre-rented track or paddock activities during this period.
  - 3) The Paddock, including Premiere Pit Row Suites, Turn 3 Chalet, Garages and Temporary Garages shall be available to Series beginning at 8:00am on November 8,

2021 for set-up and such availability shall conclude and terminate at 5:00pm on November 16, 2021. Paddock area as it relates to set-up availability for Series will be coordinated in advance with Manager at Manager's discretion to facilitate Series set up needs with existing track renters. It is understood that the Series has requested a major buildout of the paddock. If Series needs more time for the buildout, County will work with Series to provide additional time. Series shall not disrupt any other pre-rented track or paddock activities during this period. Areas near the paddock, garages and temporary garages, including Center Gate area, to be clear at discretion of Manager by 10:00pm November 14, 2021.

- 4) The Racetrack, Stewards Building, Timing and Scoring building, and Triple Tall building shall be available to Series beginning at 8:00am on November 9, 2021 for set-up and such availability shall conclude and terminate at 6:00pm on November 14, 2021. Series shall not disrupt any other pre-rented track or paddock activities during this period.
  - 5) The following campsite locations needed will be available for LSRA campers through November 8, 2021. Campgrounds available for Series are: Chaparral, Can Am, Grand Prix, Lower Terrace, Upper Terrace, and Terrace. A total of 302 sites. Series will sell sites specifically for Event beginning November 9<sup>th</sup> through November 13<sup>th</sup>, 2021. Volunteer camping will be made available in the Turn 5 lot, totaling 11 sites. If additional room is required for volunteers, a reasonable area will be determined by Manager 60 days prior to the event. Manager will assist in scheduling volunteers to assist in providing direction for registered campers to reserved sites. If covid protocols remain in effect due to county or state mandates series will be required to follow.
  - 6) All areas of the LSRA made available to Series for use during the vintage racing event, shall be ready for use by COUNTY or its assigned no later than the day and time indicated above; Series shall specifically indemnify and defend COUNTY for any claims or damages for the area(s) not being ready for use on that day and time.
  - 7) Series may arrange with COUNTY to utilize additional LSRA areas and facilities mutually agreed to by the parties during the indicated periods above for temporary camping for attendees exempt from payment as set forth in Section III B, below, to facilitate set-up and/or tear-down of the vintage racing event.
  - 8) If Series would like to utilize the Hospitality Pavilion located at Turn 1, it will be rented to Series at an additional fee of \$3,000 per day.
- D. During the days of operation of the vintage racing event, COUNTY will not be engaged in use of the Racetrack or paddock. The Racetrack and paddock shall be available to Series beginning at 8:00am on November 10, 2021 and such availability shall conclude and terminate at 10:00pm on November 14, 2021.

- E. LSRA will be prepare the facilities and track to the standard of a large spectator racing event (including but not exclusively, cleanliness, track and facilities safety). In addition to the permanent facilities, for areas that are open to the public during the vintage racing event, the COUNTY will provide restroom capacity at the current level provided by the existing permanent restroom facilities. Series will be responsible and provide portable chemical toilets to meet the Monterey County Health Department's standards and requirements, provide trash cans, recycle containers, and the appropriate number of ten-yard dumpers as required, and will clean the public areas of all litter and trash after the transfer of the area to Series. Areas not accessible to the public during the vintage racing event shall be the responsibility of Series.
- F. Subject to availability, COUNTY will make available to Series traffic cones and barricades at no additional charge. Series shall be responsible for any damage to said items.
- G. Series shall be responsible for maintaining the entire LSRA from litter and trash during the vintage racing event and shall assure all Series vendors and contractors meet the requirements for sanitation and litter of their individual areas. Series shall be ultimately responsible for collecting and removing all litter and trash from the LSRA facility and depositing it in dumpsters provided by Series within 24 hours following the conclusion of the vintage racing event. As part of the collection and disposal of all trash and litter, Series shall develop and implement a plan to recycle waste products (including but not limited to aluminum, glass, plastic, cardboard, and cooking oils) generated by the vintage racing event to the greatest extent possible and feasible.
- H. COUNTY will make available volunteers through the Laguna Seca Volunteer Association and Service Organizations contracted for volunteer services, with any expense incurred being the responsibility of the Series, including but not limited to meal vouchers and minimum hourly rates of pay for Service Clubs. Laguna Seca Volunteer Coordinator will assist in the coordination and scheduling in cooperation with Series designee.
- I. LSRA Managers and operational staff will be available to support and aid in the planning as it relates to providing information required for permits, supplying the approved vendor list for general services and catering, and available during the event as operational support. All direct contact with required agencies or vendors to complete tasks will be the responsibility of the Series. Any expense, excluding LSRA staff time, will be at the expense of the Series.
- J. Series is responsible for booking all on-track safety services, public address system, announcer, trash, sanitation, contracted security, and all other items associated with operating the Event. Should attendance levels require Monterey County Sheriff, California Highway Patrol, local police agencies or Regional Fire support per COUNTY mandates, Series would be responsible for the expense.

- K. If the Turn 11 Hospital is required by the Series to be open and staffed, the COUNTY will arrange staffing and bill back Series for the expense. If emergency helicopter service is required by Series, the COUNTY will arrange and bill back Series for the expense.
- L. As COUNTY develops additional permanent physical facilities within the LSRA, such as building structures or tent structures, Series will have the option of negotiating with COUNTY for utilization of these additional facilities at that time. COUNTY retains sole right to develop LSRA as COUNTY deems necessary, without consultation with Series. In the event such development impacts current LSRA in a manner that causes Series to be unable to hold its event, Series may seek and be granted relief solely by early termination of this Agreement and in no event shall Series be entitled to any damages of any kind as a result of such termination. Series will be given notice of the potential of such development no earlier than six (6) months prior to the development commencing.
- M. Series will need to work with track approved vendors for any buildouts. If there is a need that is not met by one of the track approved vendors and another vendor is to be utilized, the Series shall notify and work with Manager to provide a certificate of insurance based on current COUNTY requirements. All permits are the responsibility of the Series and required to be submitted per the terms of this agreement.
- N. The COUNTY may, in its sole discretion, assign its interests under this Agreement to any concessionaire contracted by the COUNTY to operate all or a portion of the LSRA. Series acknowledges that it will need to cooperate with the future operator(s) of LSRA.

## **SECTION II – FACILITY USE DATES AND TERM**

- A. COUNTY shall provide the facilities as described above to Series for the vintage racing event during November 9, 2021 through November 16, 2021 as a County special event weekend, subject to the LSRA use permit, and the Force Majeure, Section IX, of this Agreement. Series shall conduct the vintage racing event on the following dates: November 11-14, 2021.
- B. Nothing in this Agreement shall in any way alter the County's rights or duties as a governmental agency with jurisdiction over LSRA, to act in the manner otherwise permitted or required under applicable laws for the health, safety, and general welfare of the public.

## **SECTION III – PAYMENT**

- A. Series shall pay COUNTY a total of \$200,000 for the one-year term of this Agreement. Series shall also pay the first \$25,000 of gate revenue to the County. Payments shall be made in the following installments as specified below for use of the facilities and services and under the conditions noted in SECTION I – USE OF FACILITIES of this Agreement:

Payment Due Dates:                      \$ 50,000 due September 1, 2021

\$ 50,000 due November 1, 2021

\$ 25,000 due November 20, 2021

- B. COUNTY shall not receive any share of revenue from proceeds generated by Series as a product of holding the event other than the amounts outlined in this Agreement. COUNTY will be provided two complimentary 10' x 10' booth spaces in a premier location during the vintage racing event, where COUNTY may generate revenue or conduct other legitimate COUNTY business transactions. Series agrees to honor the COUNTY'S general admission Season Pass Holders credentials at no cost to either COUNTY or the passholder during the scheduled event.
- C. As set forth in section A, Series shall pay to COUNTY a deposit of \$100,000, payable not later than July 1, 2021. Series shall adhere to the payment schedule as identified in Section A above. The deposit will be applied to the full payment due COUNTY for the vintage racing event. If through no fault of COUNTY, the vintage racing event is canceled then COUNTY shall nevertheless retain the full amount of the deposit. Series shall obtain a bond for the benefit of the COUNTY in the amount of \$30,000. This bond shall be for covering any damage, both physical and/or intellectual, that may result from holding the Series event at LSRA. Series may at its option provide COUNTY with a certified check as security deposit in lieu of this bond to be held by COUNTY and returned 30 days after COUNTY accepts receipt of LSRA as in acceptable condition upon inspection.

#### **SECTION IV – PROMOTION, PUBLICITY, AND ADVERTISING**

- A. COUNTY hereby authorizes Series to use the name "WeatherTech Raceway Laguna Seca" subject to this Agreement in its promotional information that must be approved by COUNTY prior to final printing or release. If the name of the LSRA facility is changed, by way of a naming rights agreement with COUNTY or by other action or cause, Series shall be required to use the new name in its promotional information. COUNTY will promote Series on the COUNTY marquee sign on Highway 68 in front of Laguna Seca for at least one week prior to the vintage racing event and for an additional period of time, if available, to be determined by COUNTY.
- B. Subject to the provisions of this Agreement, each Party shall have the reciprocal, non-exclusive right and license to use the Series Logo, Event Logo, WeatherTech Raceway Laguna Seca name and Logo, and the likeness of the Laguna Seca Recreation Area (including sponsors actually depicted therein) in the Promotion of and Advertising for the Event, and in the case of Series. Neither Party shall make any misrepresentations of fact in connection with publicizing, promoting, or advertising the Event. If such a misrepresentation is made, where required, the Party that made the misrepresentation shall promptly take reasonable steps to correct the error through a subsequent publication or other remedial measure. All uses must be pursuant to a mutually agreed upon brand guidelines or subject to the written approval of the granting party, such approval not to be unreasonably withheld, conditioned, delayed or denied. Series shall have the perpetual historical right to depict the Marks for historical purposes on its website and other

promotional materials as well as to use the Marks on retail goods and services. Series shall further have the right to depict the Marks in connection with virtual representations in eSports, iRacing, video games and virtual competitions related to the event.

- C. Event Digital, Radio, Television & Other Media Broadcast and Distribution. COUNTY acknowledges that Series, as the entity conducting the competition, exclusively and in perpetuity, owns (and in connection therewith, County hereby assigns to Series) the right to film, tape, photograph, capture, overhear, collect, record, and/or reflect in eSports, iRacing, video games and/or other virtual competitions, to simultaneously or thereafter reproduce, broadcast (whether live, live streamed, tape-delayed, re-broadcast or otherwise), transmit or distribute, by any means, medium or device, now existing or hereafter create all images, sounds and electronic or digital data generated during and in connection with the Events and the Race.
- D. COUNTY will promote and publicize the vintage racing event in its Calendar of Events and other calendars of events to which COUNTY posts information.
- E. COUNTY authorizes Series to attach temporary signage on all appropriate County structures within the park. Except as may otherwise be limited by current contractual restrictions regarding the naming rights, annual sponsorships, and advertising of structures and at locations within the LSRA, Series will be allowed to place signage on bridges and crossings over the Racetrack beginning November 9, 2021 and removed no later than November 14, 2021 at 10:00pm. Series will be required to work with track approved signage vendor for any bridge or track signage installs. Other COUNTY structures include, but are not limited to, pedestrian and auto bridges, fencing and buildings. A list of other COUNTY structures exempted from this authorization, if any, will be provided to Series by September 1, 2021. Series agrees to honor any current applicable contractual limitations regarding covering signage at the facility. Series agrees to work with County to mitigate temporary signage conflicts that may arise during future contract negotiations with other parties.

## **SECTION V – RELATIONSHIP**

Neither party hereto is the agent of the other and neither party shall have the right to act for or on behalf of the other or bind the other in any manner whatsoever. Neither party shall be responsible for any debts, obligations, or expenses incurred by the other party, whether or not in connection with the event contemplated hereby in the absence of written approval thereof in advance. Series shall always clearly establish during the term hereof that COUNTY is not a co-partner or otherwise liable or obligated for any cost, expense, or Series' conduct of same. COUNTY makes no representation or warranty with respect to the suitability of the Laguna Seca Recreation Area for Series' purposes nor the success or other results of Series activities conducted hereunder.

## **SECTION VI – SERIES’ OBLIGATION**

- A. Series shall complete and comply with a separate Special Use Event Application and Concession Agreement for Special Events and all required plans and approvals, approved by the County Designee, for event at least 30 days prior to the event. (A copy of a current sample of the Special Use Event Application and Concession Agreement for Special Events is attached hereto as Exhibit “B”.) If alcoholic beverages are to be sold, Series will be responsible to obtain all necessary permits through the Department of Alcoholic Beverage Control.
- B. Series shall not commit or permit any injury or damage to any part of the LSRA or their appurtenances nor any waste thereon. All property utilized by Series in the course of the operations contemplated hereby shall be returned to COUNTY in the same condition or repair after each program use, reasonable wear and tear expected and Series shall not be responsible for patent or latent defects of LSRA that existed prior to the event.
- C. Series shall promptly arrange and pay to have repairs made for any damage, reasonable wear and tear excepted, to the LSRA or other facilities arising out of Series’ operations hereunder. Series will complete all environmental repairs, as required by COUNTY, within fourteen (14) days following the vintage racing event. And whereas Series shall not be responsible for patent or latent defects of LSRA that existed prior to the event.
- D. Series shall be responsible for and promptly pay all taxes and assessments of any kind whatsoever assessed or levied for the use of the LSRA and/or for storage of its personal property at the LSRA, including but not limited to taxable possessory interest if one is created by this Agreement. The payments of any such taxes, assessments or charges shall not constitute cause for modification of fees payable by Series to COUNTY pursuant to this Agreement.
- E. Series, its agents, employees, and patrons shall be bound by all existing federal, state, and county laws, ordinances, regulations and use permits that apply to LSRA and Series’ operations.
- F. Series shall be responsible for and promptly obtain all necessary licenses and permits to conduct the event, including but not limited to those licenses necessary for the public performance of music, if applicable, and shall comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.
- G. Series shall be responsible for coordinating and gaining approval for the use of all roads providing ingress and egress to the LSRA, including roads maintained by Federal, State, and local agencies. County shall use commercially reasonable efforts to assist Series in obtaining access to and use of roads not under County’s jurisdiction and will cooperate with other agencies in obtaining such access and use; however, County cannot guarantee or warrant that such access shall be granted. Cost associated with gaining approval for use of roads for ingress and egress shall be the expense of Series.



## **SECTION VII – INSURANCE AND INDEMNIFICATION**

- A. Series shall indemnify, defend, and hold harmless COUNTY, A&D Narigi Consulting LLC, and the United States of America, their officers, employees and agents from any against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages or resulting to any and all persons, firms, or corporations furnishing or supplying work, service, materials, or supplies in connection with Series' performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any participant, person, firm, or corporation for damage, injury, or death arising out of or connected with Series' performance of this Agreement, and/or the use of the former Fort Ord road system and traffic circulation roads within the LSRA, and the public performance of music, excepting therefrom such claims, liabilities or losses arising out of the gross negligence or willful misconduct of COUNTY, A&D Narigi Consulting LLC, or the United States of America.
- B. COUNTY shall indemnify, defend, and hold harmless Series, their officers, employees and agents from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, service, materials, or supplies in connection with COUNTY'S performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any participant, person, firm, or corporation for damage, injury, or death arising out of or connected with COUNTY'S performance of this Agreement, and or the use of the former Fort Ord road system and traffic circulation roads within the LSRA, and the public performance of music, excepting therefrom such claims, liabilities or losses arising out of the gross negligence or willful misconduct of Series, its officers and employees.
- C. Without limiting Series' duty to defend and indemnify COUNTY, A&D Narigi Consulting LLC, and the United States of America as set forth above, Series shall provide insurance coverages for its use of the facility as set forth below. COUNTY and A&D Narigi Consulting LLC shall be named as additional insureds on all policies. Failure to maintain the required insurance shall be a Material Default. The cost of the insurance premium for the policy(ies) outlined below shall be at Series expense.
- D. **Required Coverage.** Without in any way limiting Series' liability pursuant to the "indemnification" section of this Agreement, Series must maintain in force, during the full term of this Agreement, insurance in the following amounts and coverages:
- E. **Commercial General Liability/Motorsport Liability** insurance should include the following minimum limits each coverage; and
- | <u>Coverage:</u>   | <u>Minimum Required Limit:</u>  |
|--|---|
| Bodily Injury and Property Damage Liability<br>(If \$20,000,000 is not available, \$10,000,000 is allowable) | \$20,000,000 Each Occurrence Limit<br>(including Contractual Liability, written and oral) |

Damage to Rented Premises (or Fire Legal)	\$300,000 per occurrence
Medical Expense	None
Personal and Advertising Injury Liability	\$10,000,000 per occurrence
General Aggregate Limit (Including Spectators)	None (Per Event is acceptable) (No Annual Agg)
Products-Completed Operations Aggregate	\$10,000,000
Legal Liability to Participants	\$20,000,000 per occurrence (No Annual Agg) (Including Participant to Participant coverage) (If \$20,000,000 is not available, \$10,000,000 is allowable)
Official Vehicle Property Damage	\$100,000 per occurrence
Racing Errors and Omissions Coverage	\$100,000 per occurrence (No Annual Agg)
Liquor Liability	\$10,000,000 per occurrence (Host at Minimum)
Medical Professional Liability	\$10,000,000 per occurrence (Excess Acceptable)
Directors', Officers' & Stewards' Errors and Omissions	\$100,000
Minimum Age of Participant	Must state the minimum age permitted

- F. **Liquor Liability** Insurance with limits not less than \$10,000,000 each occurrence. This is only applicable if Series elects to sell or distribute alcoholic beverages.
- G. **Worker's Compensation**, in Statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- H. **Participant Accident Coverage:** Series shall be responsible for providing accident coverage for its participants, including officials, workers, and volunteers.
- I. A&D Narigi Consulting LLC, shall obtain and maintain an excess layer (excess of the insurance required of [Series]) of public liability insurance for the Event for (i) spectator injury and property damage and (ii) participant legal, pit, track, product liability and medical malpractice, with a minimum combined single limit equal to but not less than \$10,000,000.00 per occurrence, and shall cause Series to be named as an additional insured with respect thereto.
- J. **Additional Insured** Commercial General Liability or Motorsport Liability Insurance, Liquor Liability policies must be endorsed to provide:

- J.1 County of Monterey, A&D Narigi Consulting LLC, its agents, officers, directors and employees as Additional Insured with respect to liability arising out of ongoing and complete operations.
- J.2 Such policies will be primary insurance and non-contributory to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement, and that insurance applies separate to each insured against whom claim is made or suit is brought.
- J.3 If Series carries or maintains an Umbrella/Excess Liability policy to provide additional coverage or if the contract requires higher limits than what Series carries in the primary policies, County shall be added as additional insured on such policies.
- J.4 The policy shall provide "drop-down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.
- J.5 Coverage must waive subrogation as respects to the additional insureds.
- J.6 Series shall provide to County a certificate of insurance evidencing the required coverages no later than sixty (60) days prior to the event. Upon County's request, Series shall provide full copies of all applicable insurance policies.
- J.7 The Certificate of Insurance and policy should list any deductibles Series might be responsible to pay or reimburse.
- J.8 If a satisfactory certificate is not received within 45 days prior to Event, County may cancel the event and terminate this agreement without penalty or cost. County shall have the right, but not the obligation, to cause the event to be insured for liability under the County Insurance Plan. Certificates evidencing such coverage and a billing for the appropriate premium charge therefore shall be sent to Series. In case the premium charge is unpaid by a date fourteen (14) days prior to the scheduled commencement of the event, County may cause the event to be cancelled and this agreement terminated with penalty or cost.
- J.9 General liability and Umbrella Policies need to be placed with at least A-rated carrier by A.M. Best.

### **SECTION VIII – FORCE MAJEURE**

- A. Force Majeure. Neither party shall be liable to the other for delay in the performance of this Agreement, or for any delay, shortening or cancellation of any race event ("Altered Event"), or for any damages suffered by such other party, to the extent any delay, Altered Event or nonperformance is due to causes beyond the control of the first party, including but not limited to, acts of God, war, terrorism, civil strife, conditions of serious threat to health or safety, rain, fire, strikes, boycotts or similar refusal to participate (included by

Event participants), inclement or severe weather (including lightning strikes), power outages, pandemic or inability to obtain necessary labor or materials. In the event of Force Majeure, Series shall receive full compensation of fees paid, minus net costs of fulfillment at the date of the Altered Event. The parties acknowledge that the World Health Organization has declared a pandemic for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)/COVID-19 (novel coronavirus), the United States government has declared a national emergency, and the United States government and various state, county and local governments have imposed ( or may impose in the future) severe restrictions and limitations on, and policies and guidelines applicable to, the day-to-day activities of businesses and individuals, including sporting events. Accordingly, Series intends to continue certain motorcycle racing activities for 2021, the scope and nature of which are (or may be), notwithstanding anything in the Agreement to the contrary, subject to or limited by certain requirements and/or limitations, including the following (collectively, the "Operational Limitations"): (i) adherence to applicable government restrictions, limitations, policies, directives, orders and/or guidelines, both at race events and with respect to Series' operations generally, and those of the Centers for Disease Control, OSHA, EEOC and other applicable agencies or organizations, (ii) following recommended protocols for medical screening and testing for communicable disease(s), including severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)/COVID-19 (novel coronavirus), and or any mutation, strain or variation thereof ("COVID-19"), (iii) quarantine or shelter-in-place for those who are sick or who have COVID-19 symptoms, and appropriate contact tracing, (iv) proper sanitation and disinfection of common and high-traffic areas and use of healthy hygiene practices, (v) use of social distancing and following suggested guidelines for personal protective equipment, (vi) execution of applicable communicable disease related hold harmless, release, waiver of liability, and indemnity agreements, and (vii) subject to the provisions below, potential restrictions on individuals attending race events (including travel restrictions) and/or having access to the paddock or other restricted areas. In the event a party believes in good faith that it is necessary to cancel, suspend, postpone, or reschedule the Event in whole or in part for any reason relating to COVID-19 and/or the Operational Limitations, the parties will promptly consult with each other in good faith and mutually agree upon the proper actions taking in-to account applicable governmental directives or orders and will mutually agree on appropriate adjustments to the Agreement in connection therewith. Notwithstanding anything contained in the Agreement to the contrary, neither party shall be liable for, or in breach or default due to, any failure or delay in performance under the Agreement to the extent such failures or delays are proximately caused by or related to applicable government directives or orders or if COVID-19 and/or the Operational Limitations makes it commercially impractical, illegal, inadvisable or impossible, in whole or in part, to perform the applicable terms of the Agreement or the purpose of the Agreement is frustrated. In the event of a complete (i.e., neither racing nor spectators allowed) cancellation, due to a Force Majeure Event, no rental fee will be due from Series and the parties will work together to determine a fair allocation of any previously incurred expenses that cannot be reasonably avoided or mitigated.

- B. Series acknowledges notice that COUNTY may terminate this Agreement at any time if the LSRA and facilities are required by the COUNTY'S grantor of the property hereunder, the United States of America, for the national defense.

### **SECTION IX – BANKRUPTCY**

This Agreement shall automatically terminate if:

- 1) Series shall make an assignment for the benefit of creditors, file a voluntary petition for bankruptcy, or initiate a State court action for appointment of a receiver, or:
- 2) A proceeding in bankruptcy or for appointment of a receiver is commenced against Series in any Federal or State court, unless the same is dismissed within thirty (30) days. In all such cases, the termination shall become effective as of the filing of such petition or the appointment of such receiver or trustee or the commencing of such court action, whichever occurs first and, immediately upon such termination, all rights hereunder shall revert to COUNTY.

### **SECTION X – TRANSFER**

- A. Series shall not make or permit any Transfer of its interest in the Agreement without the prior written approval of the COUNTY. A Transfer is defined as a sale, sublease, subcontract of Series' interest in this Agreement and/or a change in the composition or ownership of Series, by any cause or for any reason, so that the current existing owners, as set forth in the attached statement of owners and interests, combined, control less than 50% of the equity and/or business control of Series.
- B. A request for Transfer must include information regarding the proposed Transferee, including the name, address, and ownership of Transferee; the nature of Transferee's business; Transferee's character and reputation; and Transferee's current financial statements (certified by an officer, a partner, or an owner of Transferee); and the terms of the proposed Transfer, including the consideration payable by Transferee; and a copy of all documentation concerning the proposed Transfer; and any other information or documentation reasonably requested by COUNTY.
- C. COUNTY may recover its reasonable fees and costs in determining whether or not to approve any Transfer, up to \$10,000, and such fees are due and payable whether or not the Transfer is approved. COUNTY must respond in writing to a request for Transfer within 45 days of submission to COUNTY of pertinent financial data of proposed Transferee.
- D. Notwithstanding any other provision of this Agreement, as the interest granted to Series herein is a personal non-assignable license interest only, COUNTY may withhold its consent to any Transfer in its sole discretion, provided that such discretion shall not be exercised in an arbitrary or unreasonable fashion. Except as to the term and payment

schedule set forth in Section II A and Section III A, COUNTY may impose such reasonable conditions upon the transfer as it deems appropriate. Further, any single consent to Transfer shall not be the basis for or implied consent to additional Transfers, and Series shall remain liable under the Agreement, notwithstanding such approved Transfer.

- E. Any Transfer without the prior written approval and consent of COUNTY may, at the option of COUNTY, be viewed as a material and non-curable breach of this Agreement and shall be void.
- F. This Agreement may be assigned by COUNTY to an LSRA facility manager subject to all terms and conditions stipulated within this Agreement.

### **SECTION XI – TERMINATION**

- A. Notwithstanding any other term or condition contained herein, whether express or implied, either Series or COUNTY may terminate this Agreement with cause that is not cured within ninety (90) days and with written notice to the other party.
- B. Except in the case of an attempted Transfer without approval, which shall, at the option of COUNTY, be the basis for immediate termination, COUNTY may terminate this Agreement for breach of terms and conditions of this Agreement or any related annual Agreement for Special Events that are not first remedied upon sixty (60) days written notice.
- C. Notice of termination by either party is effective as of the date the notice is received. Series may terminate the Agreement without penalty and with a full refund of any deposits made if the termination occurs 60 days or greater prior to the event. If Series terminates the Agreement less than 60 days prior to the event, Series will receive a refund of all deposits and payments previously made and Series will pay to COUNTY a fee of \$62,000.
- D. Series shall truly observe, fulfill and perform each term, covenant and condition of this Agreement and the related annual Concession Agreement for Special Events. In case of any breach of any term, covenant or condition of this Agreement and a failure by Series to remedy the same upon thirty (30) days' notice, in addition to all other remedies, including termination of this Agreement, the damages pertaining to said breach shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon the faithful performance bond or security.

### **SECTION XII – COUNTY OVERSIGHT AND ACCESS**

- A. COUNTY shall designate the County Representative for contract management purposes, and Series shall ensure that the County Representative has full access to and complete information regarding all Series' activities related to the event, and all other Management

Premises operational and financial aspects as County determines to be necessary to adequately oversee implementation of this Agreement. Failure to provide the County Representative with the access and information set forth herein shall be a Material Default.

- B. Notwithstanding any other provisions of this Agreement, County and its agents shall have the right to enter the Facilities at any time for any appropriate purpose. Denial of such access shall be a Material Default.

### **SECTION XIII – NOTICES**

Any notice pursuant to this Agreement shall be given in writing by a Party or its legal representative by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, (d) legible facsimile transmission, or electronic mail or other electronic means sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance with this section, and shall be deemed to have been given either at the time of personal deliver, or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile transmission or electronic mail, as of the date of the facsimile or electronic transmission (or next business day if transmitted on a day other than a business day). Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

COUNTY:

VELOCITY INTERNATIONAL, LLC

County of Monterey  
168 W. Alisal Street, 3<sup>rd</sup> Floor  
Salinas, CA 93901

Velocity International, LLC  
336 Bon Aire Center #377  
Greenbrae, CA 93904

### **SECTION XIV – EQUAL OPPORTUNITY**

Series shall comply with the terms of this Agreement herein without any discriminatory practice based on sex, sexual preference, age, color, religion, handicap, marital status, national origin, or ancestry.

### **SECTION XV – COMPLETE AGREEMENT**

- A. This Agreement embodies the complete understanding of the parties hereto and cannot be amended or modified except in writing signed by each party hereto. Except as set forth herein, there are no other oral or written agreements, representations, or warranties, express or implied.

- B. However, from time to time, COUNTY and Series may enter into a Memorandum of Understanding to address specific details on maintenance and operations pursuant to and consistent with the provisions of this Agreement.

### **SECTION XVI – CONTROLLING LAW**

This Agreement and all disputes hereunder shall be interpreted under and governed by the laws of the State of California and venue for all actions to enforce the terms of this Agreement shall be the County of Monterey.

### **SECTION XVII – NO REPRESENTATION OR WARRANTY OF FITNESS**

Series acknowledges that it has been advised by COUNTY that the conditions, facilities, and area in the LSRA which Series is authorized to use in accordance with this Agreement has not been represented as being fit for Series' intended use or for any particular use. Series acknowledges that it has been advised to inspect the condition, facilities, and other areas Series is permitted to use hereunder prior to the issuance of this Agreement, and/or prior to Series actual use from time to time. Based upon Series personal inspection or upon Series right to inspect, Series further acknowledges that the conditions, facilities, and other areas are safe and adequate for Series intended use. Series shall have exclusive use of the LSRA as described above during periods of time Series is scheduled to use the facilities under this Agreement. Series shall be responsible for all equipment and for adequate safeguards for the protection of Series and others.

### **SECTION XVIII – AGREEMENT SUBORDINATION**

This Agreement is subject to and subordinate to all the terms and conditions of the following:

- 1) The certain quitclaim deed with the United States as Grantor and the County of Monterey as Grantee dated the 31<sup>st</sup> day of October 1974, and recorded in Reel 944, page 1077, Monterey County Records, as amended on August 6, 1986 and recorded in Monterey County Official Records at Reel 2012 Page 235, and on January 21, 2000 by Document No. 2000082485, Monterey County Official Records, and that certain Use Agreement, permit number 2991 issued by the County Planning Commission on or about October 26, 1983, pursuant to Resolution number 83-376, copies of which are on file at the County Administration Office headquarters at 168 W. Alisal Street, Salinas, California.
- 2) Series acknowledges reading the foregoing documents and knowing the contents thereof.
- 3) Series also acknowledges that COUNTY has the right and authority to enter into agreements with others for the Naming Rights to the LSRA, all or part of its facilities,



and independently has the authority and right to change or modify the name of the LSRA at any time and for any reason or for none. In the event that COUNTY decides to change the name of the LSRA or enter into contractual relationships regarding the naming rights for the LSRA as a whole or any structures contained therein, Series agrees that it shall be bound to the use of those names and to honor and not cover over the signage that may become affixed to those structures in the future, if so required by COUNTY.

#### **SECTION XIX – FAITHFUL PERFORMANCE BOND**

- A. Thirty (30) days prior to the event, Series shall provide COUNTY with a bond in the amount of \$30,000 as a security bond to guarantee payment of any monies which may be payable to COUNTY under this Agreement; any damage to LSRA; utility charges, if any; removal by COUNTY of Series' personal property as may be left on the premises in violation of the terms of this Agreement; and cost to COUNTY of restoring premises occupied and left by Series in unsatisfactory condition. Series may at its option provide COUNTY with a certified check as security deposit in lieu of this bond to be held by COUNTY and returned 30 days after COUNTY accepts receipt of LSRA as in acceptable condition upon inspection. COUNTY has the sole right to cash/deposit check and determine amount and method to remit to Series at end of event after County inspection of LSRA.
- B. Neither the provisions of this section, any bond or security accepted by COUNTY pursuant thereto, nor any damages recovered by COUNTY thereunder shall be construed to excuse faithful performance by Series or limit the liability of Series under this Agreement or for damages, either to the full amount of the bond/security or otherwise.

#### **SECTION XX – MISCELLANEOUS PROVISIONS**

- A. Complete Agreement: This Agreement constitutes the full and complete agreement between the Parties regarding the subject matter hereof.
- B. Amendment: This Agreement may be amended from time to time by mutual consent of the Parties. Such amendments may only be in writing and signed by both parties.
- C. Dispute Resolution: If there are disputes and/or controversies between the Parties relating to the interpretation, construction, performance, termination, breach of, or withdrawal from this Agreement, the Parties shall in good faith meet and confer within twenty-one (21) calendar days after written notice of a dispute has been sent by one Party to the other Party. If the parties are not able to resolve the dispute through informal negotiation, the Parties agree to submit such dispute to formal mediation before resorting to litigation. If the Parties cannot agree upon the identity of a mediator within ten (10) business days after a Party requests mediation, then the Parties shall each select a mediator and those two (20) mediators shall select a third mediator to mediate the dispute. The Parties shall share equally in the cost of the mediator who ultimately

mediates the dispute, but neither Party shall be entitled to collect or be reimbursed for other related costs, including but not limited to attorneys' fees. If mediation proves unsuccessful and litigation of any dispute occurs, the prevailing Party shall be entitled to reasonable attorneys' fees, costs, and expenses in addition to any other relief to which the Party may be entitled. If a Party refuses to participate in mediation prior to commencing litigation, that Party shall be deemed to have waived its rights to attorneys' fees and costs as the prevailing Party.

- D. Execution in Parts or Counterparts: This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered and constituting one complete original and may be attached together when executed by the Parties. Facsimile or electronic signatures shall be binding.
- E. Party Authorization: The governing bodies of the Parties have each authorized execution of this Agreement, as evidenced by their respective signatures below.
- F. No Predetermination or Irrevocable Commitment of Resources: Nothing herein shall constitute a determination by County or Series that any action shall be undertaken or that any unconditional or irrevocable commitment of resources shall be made until such time as required compliance with all local, state, or federal laws, including without limitation the California Environmental Quality Act, National Environmental Policy Act, or permit requirements, as applicable, have been completed.


#####

IN WITNESS WHEREOF the parties have executed this Agreement as of the date set forth above.

COUNTY OF MONTEREY

VELOCITY INTERNATIONAL, LLC,  
a California limited liability company

By: \_\_\_\_\_  
Contracts/Purchasing Officer

By:  \_\_\_\_\_

Date: \_\_\_\_\_

Jeff O'Neill, Founder  
Name and Title

By: \_\_\_\_\_  
Department Head (if applicable)

Date: March 30, 2021

Date: \_\_\_\_\_

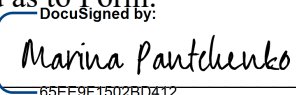
By: \_\_\_\_\_  
Board of Supervisors (if applicable)

By:  \_\_\_\_\_

Date: \_\_\_\_\_

Ryan Turri, General Manager  
Name and Title

Approved as to Form:

By:  \_\_\_\_\_  
County Counsel

Date: March 30, 2021


Date: 3/30/2021 | 4:39 PM PDT

Approved as to Fiscal Provisions:

By:  \_\_\_\_\_  
Auditor/Controller

Date: 3/30/2021 | 4:42 PM PDT

Approved as to Liability Provisions:

By:  \_\_\_\_\_  
Risk Management

Date: 3/30/2021 | 4:24 PM PDT