



## FACILITY USE AGREEMENT

This agreement ("Agreement"), dated November 25, 2024, is by and between **SPEEDWAY SONOMA LLC aka SONOMA RACEWAY** ("RACEWAY") and **Santa Rosa High School** ("User") located at 1235 Mendocino Ave, Santa Rosa, CA 95401.

### 1. Licensed Areas -

RACEWAY hereby licenses User, on the terms and conditions set forth in this Agreement, to access the following areas only ("the Licensed Areas" or "Premises") of the RACEWAY facilities located at Highways 37 and Highway 121 in Sonoma County, California.

- a) Turn 11 Hospitality Space – Sonoma and Carousel Room(s)

### 2. Term; Event -

The right to use the Licensed Areas shall be solely for the purpose of conducting the following event: **Santa Rosa High School Prom** ("Event") and only on the following date(s) and time(s):

**Description of Activity:** Santa Rosa High School Prom, not to exceed approx. four hundred and fifty (450) students

**Date(s):** May 10<sup>th</sup>, 2025

**Time(s):** 7 pm -10 pm

Raceway will provide access to Turn 11 earlier in the day for mutually agreed event set-up and/or decorating. Rental is inclusive of existing Turn 11 furniture seen in Exhibit A. User agrees to provide tables, chairs, and linens according to Raceway specifications. *Optional porter service available at \$35/hour.*

### 3. Guaranteed Minimum Rent; Non-refundable Deposit –

User agrees to the following:

- Pay to RACEWAY **\$15,000** as the ("Rent") for use of the Licensed Areas and activities described above.
- Pay to RACEWAY **\$7,500** as a security deposit for the Event. This represents 50% of the total Rent. Payment is due upon signing.
- Pay to RACEWAY **\$7,500** as the remainder of Rent. Payment is due on or before **April 10<sup>th</sup>, 2025**.

### 4. Security Deposit -

A refundable DAMAGE DEPOSIT of **\$2,000** due **April 10<sup>th</sup>, 2025**, is to be paid by separate check or money order, returnable to the User up to two (2) weeks after the event date, once the property has been inspected for any damage from the event. Any repairs or replacements needed as a result of

the event will be first deducted from the deposit. Damages exceeding \$2000.00 will be the responsibility of User.

## **5. Cancellation -**

User right to cancel. User shall have the right to cancel this Agreement by written notice to RACEWAY not less than ninety (90) days prior to the Event, in which case RACEWAY shall be entitled to keep the Deposit described in paragraph 3 as a cancellation fee and neither party shall have any further liability to the other. No cancellation shall be permitted within 90 days prior to the Event and User shall be liable for the entire amount of guaranteed minimum rent plus any costs or other damages incurred by RACEWAY as a result of User's cancellation or failure to perform. Under no circumstances will the Deposit be returned except as provided below.

RACEWAY right to cancel. RACEWAY shall have the right to cancel this Agreement by written notice to User not less than sixty (60) days prior to Event. In the case of cancellation, RACEWAY shall return any deposits (including the Deposit described in paragraph 3) or Rent paid to date by User. Upon return of said monies, RACEWAY will be under no further obligation to User.

In the event the Turn 11 building becomes unavailable, for any reason, Raceway will make best efforts to reschedule the event or offer a suitable alternative location at the Raceway.

## **6. Use.**

6.1 Maintenance; Cleanup. Licensee agrees to keep and maintain the Premises in good repair, order and condition, normal wear and tear excepted, and shall be responsible, at its sole cost and expense, for the cleanup, removal and disposal of trash, tires and other debris left on the Premises; and the cleanup or other remediation of any fuel or other chemical spills or damage on or at any portion of the Premises during the License Period whether caused by Licensee or the Licensee's personnel, employees, guests, invitees, contractors, sub-contractors, agents and Event participants (collectively the "Licensee Group"). Any Licensee property and/or equipment (the "Licensee Property") remaining on the Premises or Facility at the expiration or termination of the later of the Licensed Period or Term of this Agreement shall immediately become Licensor's property. Such Licensee Property may be disposed of or may be retained at Licensor's sole discretion.

6.2 Damage. Licensee shall reimburse Licensor, at Licensor's cost thereof, for the repair of any damage caused and/or for any replacement of property loss or destroyed by Licensee or the Licensee Group during the Licensed Period, including but not limited to any damage to Licensor's electronic, or mobile equipment, the racing surface, fencing, guard rail, and all other improvements and equipment which may be included in the Premises.

6.3 Compliance with Rules and Regulations. Licensee shall abide by and observe all rules and regulations established from time to time by Licensor pertaining to the use and occupancy of the Premises and the Facility and Licensee shall be responsible for communicating the same to the Licensee Group.

6.4 Decorum; Compliance with Laws. Licensee and the Licensee Group shall at all times maintain proper decorum, as determined by Licensor, while using the Premises and shall comply with all applicable laws and regulations of any City, County, State, Federal or other governmental authority or agency pertaining to Licensee's occupancy and use of the Premises and conduct of the Event. The parties hereby agree that pursuant to 28 C.F.R. § 36.201(b), Licensee shall bear all responsibility for compliance with disability access requirements that pertain to its Event. Licensee shall indemnify, defend and hold Licensor harmless from any failure of Licensee or the Licensee

Group to comply with such laws and regulations. Failure by Licensee to follow the provisions of this paragraph constitutes a material breach of this Agreement.

6.5 Security; RACEWAY to provide one (1) guard at the Gate 1 entrance, one (1) roving guard, and one (1) suited Turn 11 guard at the Event. *Additional suited guards are available at \$40/hour.*

6.6 **Alcohol; USER and RACEWAY agree that no alcohol, alcoholic beverages, or any substances intended to alter mental or physical state shall be permitted at the Event.**

#### **7. Release, Participant Releases, Indemnification –**

User shall indemnify, reimburse, and hold RACEWAY, Speedway Motorsports, LLC, Sonic Financial Corporation, Speedway Holdings I, LLC, Speedway Holdings II, LLC and Speedway Children's Charities and their subsidiaries and affiliates, and their respective members, partners, directors, managers, officers, employees and agents (the "Indemnified Parties") harmless from any and all loss, liability, costs, damages, attorney's fees, and expenses (including damage to RACEWAY's property) (including but not limited to any loss, liability, costs, damages, attorney's fees and expenses arising out of COVID-19) that RACEWAY may incur or may be held liable for as a result of, or arising out of, or in connection with, directly or indirectly, the performance and User's or User's personnel, employees, guests, invitees, sub-contractors, agents, spectators or participants, use of and occupancy of the Premises, excluding any and all damages or loss resulting from the willful misconduct of RACEWAY, its personnel, employees, guests, invitees, sub-contractors, agents, spectators or participants.

User, its agents, licensees, guests, invitees, and employees voluntarily enter into this Agreement and assume all risks of loss, damage or injury, including death, that may be sustained by it or any of them, except such risks caused by the gross negligence or willful misconduct of RACEWAY, or its agents or employees. User hereby releases and holds harmless the Indemnified Parties from any and all claims, demands, actions, causes of action or liability arising out of or related to any loss, damage or injury, including death, that may be with the User, their agents, employees, invitees, licensees, or other persons using the Premises or in connection with the User, while performing under this Agreement and while upon the Premises. This release and indemnification shall be binding on the heirs, next of kin, distributes, executors and administrators of User, as well as the successors and assigns of User, their agents, licensees, guests, invitees, sub-contractors and employees.

All of User's agents, licensees, guests, invitees and employees shall sign RACEWAY's standard release and waiver (including but not limited to a COVID-19 related release and waiver) prior to entry on the Premises or commencement of the Activity. User shall be responsible for seeing that waiver release forms are signed by all participants, workers and other persons having access to restricted areas, such as, but not limited to, pit lane, race track, worker positions, etc. These releases shall either be given to RACEWAY management at the conclusion of the event or kept at the User's place of business. User shall upon demand produce these signed waivers to RACEWAY or its agents. Whether or not User delivers the liability releases required herein, upon notice from RACEWAY, User shall defend all such claims at User's expense by counsel satisfactory to RACEWAY. User, as a material part of the consideration for this Agreement, hereby assumes all risk of damage to property or injury to persons in, upon or about the Licensed Areas and related facilities arising from any cause, and User hereby waives all claims in respect thereof against RACEWAY.

**RACEWAY SHALL NOT BE LIABLE TO USER OR THOSE CLAIMING, BY, THROUGH, OR UNDER USER FOR ANY INJURY TO OR DEATH (INCLUDING BUT NOT LIMITED TO INJURY OR DEATH CAUSED BY COVID-19) OF ANY PERSONS OR THE DAMAGE TO OR THEFT, DESTRUCTION, LOSS, OR LOSS OF THE**

**USE OF ANY PROPERTY OR INCONVENIENCE (A "LOSS") CAUSED BY CASUALTY, THEFT, FIRE, THIRD PARTIES, OR ANY OTHER MATTERS. USER WAIVES ANY CLAIM IT MAY HAVE AGAINST RACEWAY FOR ANY DAMAGE TO OR THEFT, DESTRUCTION, LOSS, OR LOSS OF THE USE OF ANY PROPERTY, REGARDLESS OF WHETHER THE NEGLIGENCE OR FAULT OF RACEWAY CAUSED SUCH LOSS.**

#### **8. Government Regulations/Compliance with Laws and Rules Pertaining to Use of Licensed Areas**

User will adhere to all applicable laws and regulations of any city, county, state, federal or other governmental authority or agency, including but not limited to those laws and regulations pertaining to public access by disabled patrons of, or participants in, the Event, and shall not conduct or allow to be conducted any illegal or immoral activities or business on the premise. User shall, at User's sole cost and expense, at all times comply with, and cause its employees, personnel, guests, invitees and participants to comply with all city, county, state and federal laws, ordinances, rules, regulations and requirements pertaining to User's occupancy and use of the Licensed Areas and conduct of the Event, including without limitation such things as reporting of income, sound restrictions, curfews, use and disposal of fuel and other chemicals, etc., and those laws and regulations pertaining to public access by disabled patrons of, or participants in, the Event, User shall indemnify, defend and hold RACEWAY harmless from any failure of User or User's employees, personnel, guests, invitees, sub-contractors, agents, spectators and participants to comply with such laws and regulations. The parties hereby agree that pursuant to 28 C.F.R. § 36.201(b), the User shall bear all responsibility for compliance with disability access requirements that pertain to its Event.

DURING THE TERM OF THIS AGREEMENT, THE USER SHALL NOT ALLOW ANY OTHER ORGANIZATION, COMPANY, OR ENTITY ("SUB USER") TO USE THE LICENSED AREAS OR PREMISES WITHOUT PRIOR CONSULTATION WITH AND APPROVAL BY RACEWAY. SUCH APPROVAL SHALL BE GRANTED OR WITHHELD AT THE SOLE DISCRETION OF RACEWAY. AS A CONDITION OF SUCH APPROVAL, USER MUST DISCLOSE TO RACEWAY ALL AGREEMENTS AND FINANCIAL ARRANGEMENTS BETWEEN USER AND SUB USER AND MUST ENSURE SUB USER PROVIDES INSURANCE AS OUTLINED IN SECTION 15 AS WELL AS ABIDES BY ALL OTHER TERMS OF THIS AGREEMENT.

**Notwithstanding anything to the contrary contained in the Agreement, User's use of the Premises must follow the COVID-19 Response Protocol outlined in EXHIBIT B attached hereto and hereby incorporated herein.**

#### **9. Drones, unmanned aircraft systems –**

The use of drones or any other unmanned aircraft systems ("UAS") at RACEWAY is prohibited unless approved in advance in writing by senior management from RACEWAY. USER shall not use or permit any use of drones or UAS absent such consent. If such approval is granted, a condition of approval will require USER or the operator of the drone or UAS to agree in writing with a policy statement that may include, without limitation: i) compliance with all applicable local, state and federal laws, rules and regulations; ii) adherence to RACEWAY designated standards of use; iii) provision of insurance as required by RACEWAY; iv) completion of all applicable location releases and other agreements regarding the use of any photograph, video, footage, data and/or other information gathered by the drone or UAS.

RACEWAY may confiscate any UAS at its discretion if RACEWAY observes such on its property, and may contact local law enforcement and federal authorities to advise that an unapproved flight or attempt to fly an UAS occurred on RACEWAY's property.

#### **10. Insurance requirements–**

User shall, at User's sole cost and expense, comply with all requirements of all participant and general liability insurance policies, including but not limited to certification, training and licensing of all equipment, ambulances, medical personnel, corner workers, fire safety personnel, etc. required or supplied by User. User hereby agrees that it shall obtain general liability insurance on a primary and non-contributory basis with a combined single limit of Two Million Dollars (\$2,000,000), including a Two Million Dollar (\$2,000,000) limit in Participant Legal Liability. User shall obtain a Ten Thousand Dollar (\$10,000) limit in Accidental Death and Dismemberment; Fifteen Thousand Dollar (\$15,000) Excess Medical Insurance and Weekly Indemnity of Seventy-Five Dollars (\$75) for fifty-two (52) weeks. User shall obtain Statutory Workers Compensation and Employer's Liability insurance in an amount not less than Two Million Dollars (\$2,000,000). User shall obtain Automobile Liability Insurance coverage in an amount of Two Million Dollars (\$2,000,000). All such policies shall be PRIMARY with respect to User's activities. A Waiver of Subrogation is to be provided under all policies and all policies must be endorsed to cover "on track activities". Such policies of insurance shall be with a United States insurance company having an A.M. Best Rating of A or higher. User agrees to furnish RACEWAY a certificate of Insurance via email to [vtaito@sonomraceway.com](mailto:vtaito@sonomraceway.com) or direct mail or by facsimile to 707-938-8430 evidencing all the above insurance coverage and naming Speedway Sonoma, LLC, Speedway Motorsports, LLC, Sonic Financial Corporation, Speedway Holdings I, LLC, Speedway Holdings II, LLC, Speedway Children's Charities and their subsidiaries and affiliates, and their respective members, partners, directors, managers, officers, employees and agents as Additional Insureds on the certificate. User shall deliver to RACEWAY a certificate of insurance in compliance with this provision not less than thirty (30) days prior to the event. If this insurance is to be arranged by RACEWAY, User shall notify RACEWAY in writing upon execution of this Agreement and pay the cost of the insurance in full not less than ten (10) days prior to the event. It is understood that such insurance shall not absolve User from liability to RACEWAY for such indemnification and reimbursement unless such insurance in fact fully indemnifies and reimburses RACEWAY. All such policies of insurance shall be primary with respect to the Activity at the Premises, and shall be broad enough to cover the acts or omissions of User and User's personnel, employees, guests, invitees, sub-contractors, agents, spectators or participants in any way related to the Event. User's failure to obtain the required insurance shall be a material breach of this Agreement.

Additional insured information:

As respects to operations by the named insured, Speedway Sonoma, LLC; Speedway Motorsports, LLC; Sonic Financial Corporation; Speedway Holdings I, LLC; Speedway Holdings II, LLC; Speedway Children's Charities and/or each of their subsidiaries and affiliates and their respective officers, managers, directors, employees, and agents related to the operations are added as Additional Insured to the General Liability policy on a Primary basis and loss payee on the Property policy. A Waiver of Subrogation is provided under all policies where allowed by state law and, in addition, all policies have been endorsed to cover "on track activities."

#### **11. Force Majeure –**

Neither party shall be liable or bear any responsibility for failure or inability to perform its obligations hereunder due to any contingency or cause beyond its reasonable control, including but not limited to, construction, inclement weather, fires, floods, wars, accidents, labor disputes or shortages, inability to obtain materials, equipment or transportation, or any similar cause beyond reasonable control of such party.

#### **12. Condition of Premises–**

RACEWAY makes no representations or warranties as to the condition of the licensed areas or the premises and hereby disclaims all warranties as to the suitability of the licensed areas or the

premises for the Event, and the safety of those attending the Event. The Parties agree that RACEWAY is not a health care provider, is not ensuring or guaranteeing an infection free environment, and is not disinfecting any portion of the premises or licensed areas. The Parties further agree that RACEWAY cannot enforce CDC guidelines, various Orders from California Governor Newsome, and it is the sole responsibility of User to conduct the Event in a safe manner consistent with CDC guidelines, all governmental Orders and laws, provide safety measures such as masks and gloves, and to design/conduct the Event in a healthy manner in such a way so that those participating in the Event will not become infected with COVID-19.

User will inspect the Premises prior to the beginning and at the end of the Event to document any dangerous condition that may pose an unreasonable risk of harm on the Facility to persons or property, and report same to RACEWAY in writing. It is the sole duty and obligation of the User to conduct this inspection of RACEWAY's premises. User has represented to RACEWAY that it has the sufficient experience, training, expertise to safely and accurately conduct its Event and/or design any structure, or equipment for its Event, and to comply with all governmental orders, ordinances, laws, and regulations.

User shall adhere to all laws, mandates, and Orders from the State of California, and shall be exclusively responsible for all CDC protocols and guidance. It is the sole and exclusive responsibility of User to conduct the Event in a safe manner to protect the health of all Event attendees and participants.

### **13. Intellectual Property–**

User shall not use the intellectual property, including but not limited to trademarks, services marks and trade dress, of RACEWAY or any third party without the written consent of RACEWAY or such third-party. User may not display at the Premises any trademarks, service marks or trade dress of any third-party without: (1) providing RACEWAY with written proof of User's right to use such marks or trade dress; and (2) obtaining RACEWAY's written consent to display such marks or trade dress. Additionally, while on the Premises, the collection of data by use of a global positioning system device or other means relating to the position of any improvement or other building or fixture located on the Premises or relating to the layout of all or a portion thereof (hereinafter "positional data") is expressly prohibited. User's failure to follow the provisions of this paragraph constitutes a material breach of this Agreement.

In addition, User understands and agrees that SMISC Holdings, Inc. d/b/a SMI Properties ("SMIP") and RACEWAY owns and/or has a license to all rights to the names, likeness, trademarks, service marks, abbreviations, slogans, designs, logos and symbols, which have come to be associated with the RACEWAY and its Events, including any registrations that may exist therefore ("Licensed Marks"). Further, User understands that the manufacture, sale or distribution of products bearing Licensed Marks ("Licensed Articles") to be used as premiums, for publicity purposes, for fund raising, or as giveaways shall not be permitted without prior written approval from RACEWAY and SMIP, which will not unreasonably be withheld. User will use its best efforts to negotiate and utilize SMIP as the producer for any Licensed Articles.

### **14. Governing Law; Jurisdiction; Venue–**

This Agreement shall be governed by and construed in accordance with laws of the State of California. Any provisions of this Agreement found by a court to be void or unenforceable shall not affect the validity or enforceability of any other provision. All legal proceedings arising out of or related to this Agreement shall be brought and maintained exclusively in the state or federal courts sitting in Sonoma County, California, and the User hereby consents to venue and personal

jurisdiction in such courts.

**IN WITNESS WHEREOF**, the parties have accepted and executed this Facility Use Agreement on the date first above written.

**Speedway Sonoma, LLC**

Highways 37 & 121  
Sonoma, CA 95476

\_\_\_\_\_  
Pete Rogers  
Vice President of Sales

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

**Santa Rosa High School**

1235 Mendocino Ave  
Santa Rosa, CA 95401

\_\_\_\_\_  
Valerie Jordan  
Vice Principal

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

**Exhibit A**  
**Turn 11 Included Furniture Layout**

MONUMENT AREA  
ADDITIONAL SEATING TBD



