

THIS DRAFT AGREEMENT IS FOR DISCUSSION PURPOSES ONLY
AND IT HAS NOT BEEN APPROVED BY THE BOARD OF
COMMISSIONERS OF EFFINGHAM COUNTY AND IT IS SUBJECT
TO REVISION BY THE BOARD OF COMMISSIONERS

EMS SERVICES AGREEMENT

This EMS Services Agreement (hereinafter referred to as "Agreement") is made this 14th day of September, 2023 ("Effective Date"), between Buccaneer Region, Sports Car Club of America, Inc., (hereinafter referred to as "Roebing Raceway"), and the Board of Commissioners of Effingham County (hereinafter referred to as the "County") (collectively, the "Parties").

WHEREAS, Roebing Raceway operates a raceway located at 1135 Roebing Road, Bloomingdale, Georgia 31302 that is accessible by the public (hereinafter referred to as "Racetrack"); and

WHEREAS, the County is empowered to provide emergency medical services with advanced life support through appropriately licensed and qualified advanced emergency medical technicians and paramedics (hereinafter referred to as "EMT" or "EMTs"); and

WHEREAS, Roebing Raceway desires to contract with the County to provide emergency medical services at the Racetrack; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, the Parties agree as follows:

1. SERVICES:

1.1 The County shall assign one (1) paramedic and one (1) emergency medical technician to the Racetrack to perform emergency medical duties (hereinafter referred to as "Services"). The Services shall only encompass duties and functions customarily rendered by the County and EMTs assigned to Roebing Raceway shall at all times be subject to the control and direction of the County.

1.2 Each EMT shall dress in the standard uniform issued by the County.

1.3 Roebing Raceway shall not exercise control over EMT's duties in providing emergency medical services. However, Roebing Raceway shall be responsible for directing the EMT's and ambulance across the racetrack. EMTs shall be subject to, and shall abide by, all county and departmental rules and regulations as well as complying with all local, state and federal laws.

1.4 EMTs may, in their sole discretion, interrupt their provision of Services in order to discharge their public duties as EMTs and attend to emergencies and other exigent circumstances outside the scope of this Agreement.

1.5 The County's primary obligation is to serve the citizens of Effingham County. Therefore, the County reserves the right to reassign the EMT's and ambulance at the Racetrack to assist in a Force Majeure Event as described in Section 14 below.

2. RIGHT TO REQUEST EMS:

Nothing in this Agreement shall be construed to interfere with the rights of Roebing Raceway or its employees as citizens to request that the County, in its capacity as a public emergency medical service, or that an EMT, in their capacity as licensed emergency medical technicians, respond to requests for emergency medical assistance. The County and EMTs shall retain sole and exclusive discretion to respond to requests for emergency medical assistance in such manner and to such extent, as the law and their training may require.

3. TERM AND TERMINATION:

This Agreement shall become effective on the Effective Date and shall remain in force until June 30, 2024. The payment term in Section 4 below shall be in effect from January 1, 2024 through December 31, 2024. The Parties may agree to renew this Agreement annually subject to increases in payment and any other terms that may need to be revised. Either Party may terminate this Agreement at any time without cause by providing sixty (60) days prior written notice to the other party. The County Manager or EMS Director has sole authority to terminate this Agreement on behalf of the County. In the event of a material breach by a party, the non-breaching party shall have the right to terminate this Agreement immediately.

4. PAYMENT:

Roebing Raceway shall reimburse the County for the full amount of any and all costs associated with paying the EMT for the work performed pursuant to the EMT's regular rate of pay, over time where necessary, all health and retirement benefits, leave time and other fringe or employment benefits that the County would be obligated by law or local ordinances, regulations, or policies to pay. In exchange for Services rendered, Roebing Raceway shall pay fees ("Fees") in the amounts and according to the terms set forth below:

Ambulance: \$175.00 per day per ambulance; one day minimum.

Paramedic: \$35.00 per hour per EMT; eight hours minimum with one paramedic required per ambulance.

Example: One ambulance and the EMTs required to staff that ambulance for a day would cost \$735.00.

Roebing Raceway shall not be responsible for withholding taxes, Social Security taxes, payroll expenses, workers' compensation insurance, benefits, professional liability insurance, and state and federal unemployment insurance, or any other payroll related payment or deduction.

The County shall provide Roebing Raceway with a statement of said compensation to be reimbursed on a monthly basis. Roebing Raceway shall pay fees to the County within 10 calendar days from the date of the statement. Invoices shall be mailed to the following address: PO Box 369, Bloomingdale, GA 31302

5. COUNTY'S STATUS AS INDEPENDENT CONTRACTOR.

The County at all times shall be considered an independent contractor for all purposes under this Agreement, including the performance of Services. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership or employer/employee relationship between the Parties. Neither Roebing Raceway nor the County shall hold itself out as the representative or agent of the other Party. Neither Roebing Raceway nor the County has the right and neither shall seek to exercise any control over the other Party, its employees, its EMTs or its agents. The County, its employees, and EMTs assigned to the Racetrack shall not be deemed employees or joint employees of Roebing Raceway for any purpose. The County retains the sole right and authority to recruit, hire, promote, discipline, demote, discharge, determine rates of pay for, establish the terms and conditions of employment of, and/or to direct and control the manner in which its employees and EMTs discharge their professional and work duties. The County is responsible for instructing and training its EMTs consistent with this Agreement. The County retains the sole right and authority to decide and direct which EMTs it shall assign, and at what times, to provide Services under this Agreement. The County shall be solely responsible for all employee wages, timesheets, payroll deductions, federal and state taxes, unemployment compensation contributions, social security taxes, and benefits of its employees and EMTs. Neither the County nor its employees, agents or EMTs are entitled to receive any benefits, including but not limited to salary, vacation pay, sick leave, retirement benefits, social security, workers' compensation, health, disability, unemployment and stock options that Roebing Raceway may provide to its employees. It is understood that Roebing Raceway will not provide and shall not be responsible for worker's compensation coverage for the County or any EMT. Responsibility for providing such coverage remains solely with the County. When rendering Services at the Racetrack, EMTs act solely as the agents of the County.

6. QUALIFICATIONS:

The County warrants and represents that each EMT meets all requirements for service as an EMT in the State of Georgia and Effingham County.

7. INDEMNIFICATION:

Roebing Raceway agrees to protect, defend, indemnify, and hold harmless the County, its commissioners, officers, agents, and employees from and against any and all liability, damages, claims, suits, liens, and judgments, of whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of Roebing Raceway or other persons or entities employed or utilized by Roebing Raceway in the performance of the contract. Roebing Raceway further agrees to investigate, handle, respond to, provide defense for, and to protect, defend, indemnify,

and hold harmless the County, at its sole expense, and agrees to bear all other costs and expenses related thereto, even if such claims, suits, etc., are groundless, false, or fraudulent, including any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of Roebing Raceway or its subcontractors or anyone directly or indirectly employed by any of them. Roebing Raceway's obligation to indemnify the County shall not be limited in any way by the agreed-upon contract price, or to the scope and amount of coverage provided by any insurance maintained by Roebing Raceway.

8. INSURANCE:

For the term of this Agreement, Roebing Raceway shall, at its own expense, maintain and carry insurance in full force and effect that includes, but is not limited to, commercial general liability with a minimum of two (2) million dollars for each occurrence and a minimum of five (5) million dollars in the aggregate with financially sound and reputable insurers. The general liability insurance shall include at least the following: personal injury, cross liability, contractual liability, and thirty (30) days prior written notice of material change to, cancellation, or non-renewal of the policy. Upon the County's request, Roebing Raceway shall provide the County with a certificate of insurance and policy endorsements for all insurance coverage required by this Section 8 and shall not do anything to invalidate such insurance. Nothing in this Section 8 is intended to limit or affect the indemnification provisions of Section 7 above.

9. NOTICES:

Any notice required or provided for herein shall be in writing and shall be deemed to have been given when delivered personally or upon placement in the U.S. Mail as registered or certified mail, postage prepaid, to address of the other party shown below:

To Roebing Raceway: Donnie Johnson, CEO, 104 Wheelstone Way, Guyton, Georgia 31312.

To the County: County Manager, 804 South Laurel Street, Springfield, Georgia 31329.

10. ASSIGNMENT OF RIGHTS:

This Agreement, or any of the parties' respective rights or obligations hereunder, may not be assigned or transferred, directly or indirectly, by operation of law or otherwise, by either party without the prior written consent of the other party.

11. SURVIVAL:

No termination or expiration of this Agreement shall affect the rights and obligations of the parties accruing prior to the effective date of termination or expiration.

12. NO THIRD-PARTY BENEFICIARIES:

Nothing in this Agreement is intended to or shall be deemed to confer any rights upon any person who is not a party hereto, including any EMT.

13. NO FIDUCIARY RELATIONSHIP:

Nothing in this Agreement creates any relationship of trust or other fiduciary relationship between the parties hereto, or any EMT.

14. FORCE MAJEURE:

No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the other Party hereunder) when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)") that frustrates the purpose of this Agreement: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national, regional, or local emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or similar influenza or bacterial infection (which is defined by the United States Center for Disease Control as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (j) emergency state; (k) shortage of adequate medical supplies and equipment; (l) shortage of power or transportation facilities; and (m) other similar events beyond the reasonable control of the Impacted Party.

15. COUNTERPARTS:

This Agreement may be executed in one or more counterparts, all of which shall be deemed one and the same agreement and shall become effective when each of the parties has signed one or more counterparts.

16. ENTIRE AGREEMENT; MODIFICATION:

This Agreement with Exhibits constitutes the entire agreement of the parties and supersedes all prior agreements, negotiations, dealings, and understandings, whether written or oral, between the parties regarding the subject matter hereof. No waivers, amendments, or modifications of this Agreement or any part thereof shall be valid unless in writing signed by both parties.

17. SECTION HEADINGS:

Section headings as to the contents of particular sections are for convenience only and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular sections to which they refer.

18. SEVERABILITY:

In the event any provision hereof is held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity of enforceability of any other provision hereof.

19. WAIVER:

No consent or waiver, expressed or implied, by a party to any breach or default by any other party in the performance by such other party of the obligations thereof under this Agreement shall be deemed or construed to be a consent or waiver of any other breach or default in the performance by such other party of any other obligations of such party of this Agreement. Failure on the part of any party to complain of any act or failure to act of any other party or to declare such party in default, irrespective of how long such failure continues, shall not constitute a waiver of such party of the rights thereof under this Agreement.

20. APPLICABLE LAW:

This Agreement shall be construed, governed and interpreted in accordance with the laws of the State of Georgia.

21. CONTRACT DRAFTING:

No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

22. AUTHORITY TO EXECUTE AND ENTER AGREEMENT

By his, her, or their signature(s) below, the person or persons signing on behalf of Roebing Raceway warrant that (1) they are authorized to sign on behalf of Corporation; and (2) that the corporate entity is currently in existence and is validly registered with appropriate government offices.

IN WITNESS WHEREOF, the undersigned parties have executed, or caused this Agreement to be executed by their duly authorized representatives, under the seal as of the day and year above written.

BUCCANEER REGION, SPORTS CAR CLUB OF AMERICA, INC.

BY: Donnie Johnson RE L.S.
Donnie Johnson

ITS: CEO

ATTESTED BY:

BY: Nona Heinzen L.S.
Nona Heinzen

ITS: Secretary

IN WITNESS WHEREOF, the undersigned parties have executed, or caused this Agreement to be executed by their duly authorized representatives, under the seal as of the day and year above written.

**BOARD OF COMMISSIONERS OF
EFFINGHAM COUNTY, GEORGIA**

By: _____
Wesley Corbitt
Its: Chairman

Attest: _____
Stephanie Johnson
Its: County Clerk