

SPEEDWAY MOTORSPORTS INC

FORM 8-K (Unscheduled Material Events)

Filed 12/3/1996 For Period Ending 11/18/1996

Address	US HIGHWAY 29 NORTH PO BOX 600 CONCORD, North Carolina 28026
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Industry	Recreational Activities
Sector	Services
Fiscal Year	12/31

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): November 18, 1996

SPEEDWAY MOTORSPORTS, INC.

(Exact name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

1-13582
(Commission
File Number)

51-0363307
(IRS Employer
Identification No.)

U.S. Highway 29 North, Concord, North Carolina 28026
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (704) 455-3239

(Former Name or Former Address, if Changed Since Last Report)

ITEM 2. ACQUISITION OR DISPOSITION OF ASSETS

On November 18, 1996, Speedway Motorsports, Inc. (the "Company") acquired, through its newly-formed and wholly-owned subsidiary, SPR Acquisition Corporation, certain tangible and intangible assets, including vehicles, equipment, machinery, furnishings, leases, contract rights, accounts receivable and goodwill (the "Assets"), of Sears Point Raceway ("SPR") for \$2.0 million in cash. This acquisition was pursuant to an Asset Purchase Agreement dated October 24, 1996 (the "Agreement") between the Company, as buyer, and SPR, as seller. Pursuant to the Agreement, the amount of consideration paid by the Company was determined through arms-length negotiations with the sellers on the basis of SPR as a going concern and by strategic considerations.

Other terms of the Agreement provide for, among other things: (a) the leasing of SPR's real property for a period of fifteen years from Brenda Raceway Corporation (the operator of SPR) (the "SPR Lease"); (b) a security deposit of \$3.0 million on the SPR Lease, with such amount to be credited against the price of the Option (as defined below); (c) the option to purchase such real property for \$38.1 million during a six-month option period commencing after three years, subject to acceleration at the election of the seller (the "Option"); (d) a \$3.5 million purchase price for the Option, with such amount to be credited against the Option's exercise price; and (e) the loan to the sellers by the Company's wholly-owned subsidiary, Sonoma Funding Corporation, of \$13.45 million to pay off the seller's outstanding obligations to third parties on the real property (the "Loan"). The Loan is secured by a 30-year deed of trust on the SPR real property. Outstanding principal amounts under the Loan will be credited against the Option's exercise price when the Company exercises the Option.

The acquisition of SPR has been financed through the Company's working capital and letter of credit facility. Such facility is evidenced by a Credit Agreement dated March 7, 1996, as amended, among the Company and Speedway Funding Corp. as borrowers, certain subsidiaries of the Company, as guarantors, NationsBank, N.A., as agent, and the Lenders named therein.

The Assets were used in the operation of a motor speedway and the Company intends to continue the operations of SPR as an operating subsidiary of the Company. SPR is located on approximately 800 acres of land in Sonoma, California and is a 2.52-mile, twelve-turn road course and a 1/4-mile drag strip. SPR conducts an annual NASCAR Winston Cup race and an annual National Hot Rod Association race as well as a number of non-racing events such as driving schools, motion picture filming commercial shoots and automobile testing.

For additional information concerning the transaction, reference is made to the Agreement, the SPR Lease, the documents relating to the Loan and to press releases issued as of November 13, 1996 and November 20, 1996, copies of all of which are attached as exhibits hereto.

ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS.

(a) FINANCIAL STATEMENTS OF BUSINESS ACQUIRED. It is impractical to provide the required financial statements for SPR at the time of the filing of this report on Form 8-K. Such required financial statements will be filed as an amendment to this report on Form 8-K on or before February 3, 1997.

(b) PRO FORMA FINANCIAL INFORMATION. It is impractical to provide the required PRO FORMA financial information for the Company at the time of the filing of this report on Form 8-K. Such PRO FORMA financial information will be filed as an amendment to this report on Form 8-K on or before February 3, 1997.

(c) EXHIBITS.

Exhibit Number	Description
99.1	Asset Purchase Agreement dated October 24, 1996 between Speedway Motorsports, Inc., as buyer, and Sears Point Raceway.
99.2	Master Ground Lease dated November 18, 1996 by and between Brenda Raceway Corporation and Speedway Motorsports, Inc.
99.3	Deed of Trust, Security Agreement and Fixture Filing with Assignment of Rents and Agreements dated as of November 18, 1996 by Brenda Raceway Corporation to First American Title Insurance Company for the benefit of Sonoma Funding Corporation.
99.4	Promissory Note secured by Deed of Trust dated November 18, 1996 by Brenda Raceway Corporation in favor of Sonoma Funding Corporation.
99.5	Press Release dated November 13, 1996.
99.6	Press Release dated November 20, 1996.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SPEEDWAY MOTORSPORTS, INC.

Date: December 3, 1996

By: /s/ William R. Brooks

*William R. Brooks
Vice President, Chief Financial
Officer, Treasurer and Director*

Exhibit 99.1

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is entered into by and between Sears Point Raceway ("Seller") and Speedway Motorsports, Inc. ("Buyer").

WHEREAS, Seller owns and operates a speedway in Sonoma, California known as Sears Point Raceway (the "Raceway") and Seller desires to sell and buyer desires to purchase all of Seller's assets, based upon the terms and conditions in this Agreement.

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

1. **SALE OF ASSETS.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, all of Seller's operating assets with respect to the operation of the Raceway, which include, but are not limited to, all vehicles, equipment, machinery, furnishings, leases, contract rights, goodwill, accounts receivable, and all other personal property, tangible and intangible, but excluding, however, all cash and all real property on which the Raceway is located, all real property used for parking and access to the Raceway, and all buildings and structures used in connection with the Raceway (the "Assets"). The foregoing excluded assets, other than cash, are hereinafter called the "Real Property." At the closing of the sale, Seller shall execute all documents and take all other actions necessary to transfer all of Seller's rights, title and interest in the Assets to Buyer. The Assets will be purchased AS-IS, without warranty or representation, except as specifically provided in this Agreement. The purchase price will be allocated to the Assets in accordance with Exhibit A, and Seller and Buyer shall report the purchase price of the Assets for income tax purposes in a manner consistent therewith.

2. **PURCHASE PRICE.** Buyer shall pay Seller Two Million Dollars (\$2,000,000.00) which, together with the assumption of accounts payable pursuant to Section 5 below, shall be in full payment for the Assets. Simultaneously with the execution of this Agreement, the \$2,000,000.00 purchase price shall be placed in escrow by buyer with the First American Title Insurance Company office in Santa Rosa, California (the "Escrow Agent"). The funds will be delivered to Seller by the Escrow Agent at the closing of the sale of Assets upon transfer of the title to the Assets to Buyer. If the sale does not close due to the default of Buyer, the funds will be delivered to Seller. If the sale does not close for any other reason, the funds shall will be returned to Buyer. The funds shall be placed in an interest-bearing account by the Escrow Agent, and the interest shall be paid to Buyer periodically by the Escrow Agent.

3. **CLOSING OF SALE.** The closing of this purchase of Assets, the transfer of title to the Assets to Buyer and the delivery of the purchase price to Seller, shall take place beginning at 10 o'clock a.m. on November 18, 1996. The closing shall take place at the offices of First American

Title Insurance Company in Santa Rosa, California; provided, however, it is understood that as of the date of the signing of this Agreement, the parties have a fully binding and enforceable agreement to sell and purchase the Assets in accordance with the term of this Agreement.

4. LEASE OF REAL PROPERTY AND DEED OF TRUST.

a. At the closing, Buyer and Seller will enter into a lease of the Real Property in substantially the form of Exhibit B hereto. The parties agree that the rents will be allocated in accordance with the lease.

b. At the closing, Buyer will arrange a loan to Seller (by an entity other than Buyer, but which may be an affiliate or subsidiary of Buyer) in an amount not to exceed \$14 million plus the costs of closing such loan. The proceeds of such loan will be used to pay in full Seller's existing financing on the Real Property and certain equipment leases at closing. Such loan will be non-recourse except as to the Real Property, and will be assumable following the third anniversary of the closing. Such loan will bear interest at the rate of 4% per annum and will have a term of thirty (30) years. Amortization of the loan will be interest only for the first three years of its term and, thereafter, in equal monthly installments of principal and interest over the remaining 27 years of the term. Such loan will be evidenced by a promissory note secured by a first deed of trust on the Real Property in substantially the form of Exhibit C hereto.

5. ASSUMPTION OF LIABILITIES.

a. Buyer will assume all executory contracts and other liabilities and obligations of Seller pertaining to and incurred in the ordinary course of the operation of the Raceway, and Buyer will indemnify and defend Seller as to all such liabilities and obligations, except as to obligations which were due and payable as of the closing; provided, however, Buyer will assume and pay or discharge all accounts payable as of the date of the closing up to the amount of the accounts receivable included in the Assets on that date. The assumability and enforceability of executory contracts will be Buyers' sole risk.

b. Buyer will become the successor employer to all current employees of Seller and will assume and indemnify and defend Seller as to all employer liability, except as to monetary obligations for actual current wages, salaries, employee withholding and employer taxes due and payable prior to the closing. Without limiting the foregoing, Seller will assign and transfer to Buyer the existing 401K plan and all other employee benefit plans currently in existence and Buyer will assume all obligations of Seller thereunder.

c. Buyer's indemnification and defense obligations hereunder shall survive the closing of the sale.

6. REPRESENTATIONS. Seller makes the following warranties and representations. These warranties are to the best of the actual knowledge of Seller. (For purposes of this paragraph, "actual knowledge of Seller" means the actual knowledge of the officers, directors and management employees of Seller.)

a. Seller has (or at close of Escrow, will have) good title to the Assets, with all rights to convey good title to the Assets to Buyer, subject to any limitation on assignment contained in any contracts. Upon completion of the transfer, Buyer shall have good, marketable title to the Assets, free and clear of any liens, claims, or encumbrances, but subject to any limitation on assignment contained in any contracts.

b. The transfer of the Assets to Buyer does not violate any applicable laws or regulation or any obligations or agreements of Seller, or the Seller's sole stockholder, or any related parties, including, but not limited to, the terms or obligations under any loan agreements or other material agreements (except as may be set forth in any limitation on assignment contained in any contracts). All consents of governmental authorities, if any are required, to the transfer of the Assets by Seller will have been obtained by the closing of the Sale. Seller will cooperate in obtaining consents of third parties to the assignment of all contracts which are included in the Assets, but Seller does not warrant that such consents may be obtained, the assumability and enforceability of executory contracts being at Buyers' sole risk.

c. Except as reflected in the financial statements of Seller and as listed on Exhibit D there are no pending or threatened claims or liabilities against the Seller or its Assets or the Real Property, including, but not limited to, any pending or threatened claims with respect to environmental matters. Seller shall be responsible to Buyer for any damages resulting from a breach of this warranty.

d. The financial statements of Seller fairly represent the financial condition and results of operations of Seller. The Assets and the Real Property constitute all of the operating assets of Seller reasonably necessary for Buyer to operate the Raceway substantially as operated by Seller.

e. Seller has full power and authority to enter into and to perform this Agreement, subject to any limitations on assignment contained in any of the contracts which are included in the Assets.

f. These representations and warranties shall be true as of the date of this Agreement and as of the date of the closing. These representations and warranties shall survive the closing of the sale.

7. GENERAL PROVISIONS.

a. At closing, both buyer and Seller shall furnish legal opinions of counsel, in form reasonably satisfactory to the other party, that each party is duly organized, is authorized to enter into this transaction, and that the documents are binding on the parties.

b. Between the date of this Agreement and the closing, Seller shall not knowingly take any action (or fail to take any action), and will not knowingly suffer to occur any event within Seller's reasonable control that will materially change the value of the Assets or the Real Property or the business of the Raceway.

c. Pending the Closing, Seller shall operate the Raceway in the ordinary course of business and consistent with past practice.

d. Buyer acknowledges that it has sufficient information and has made adequate investigation of the Assets and the Real Property to enter into this binding contract. Nevertheless, from the date of this Agreement until the closing, Seller will afford to Buyer, its attorneys, accountants and other representatives, reasonable access to all of the facilities and management personnel of Seller and to such records, documents, financial information and data pertaining to the business, operations and assets of Seller as Buyer may reasonably require in connection with Buyer's purchase investigation, including, without limitation, commercially reasonable surveys, soil and environmental inspection and testing.

e. Buyer shall have the right to assign this Agreement at any time to a wholly-owned subsidiary of Buyer; provided, however, Buyer shall remain responsible for payment of or providing funds for the purchase price at the closing.

f. This Agreement constitutes the entire Agreement between the parties and it shall not be modified except in a writing signed by both of the parties.

g. This Agreement shall be governed by the laws of the State of California.

h. If any legal action is commenced to enforce any of the provisions of this agreement, the prevailing party in such action shall be entitled to recover from the other party reasonable attorneys fees and costs in addition to any other relief.

i. Except for a 10.Q which will be filed on November 14, 1996 and as expressly set forth below or as otherwise agreed in writing by the parties, neither party will cause or permit this agreement or any of the terms or provisions of this agreement or any information pertaining to this agreement to be inspected by, viewed by, disclosed to, divulged to, or made accessible to any person, firm or entity other than: (i) those officers and directors and key employees of the parties who are immediately and directly involved in the process of negotiating and evaluating the transaction; and (ii) the attorneys and accountants of the parties who are immediately and directly involved in the process of negotiating and evaluating the transaction, provided however, that prior to any such disclosure to those persons mentioned in clause (ii) hereof, the parties shall communicate to such attorney, accountant, or other person, the terms of this confidentiality agreement and obtain their commitment to be bound by all of the disclosure limitations contained herein. Notwithstanding the foregoing, a public announcement shall be made (in a form agreed to by both parties) by no later than 2:00 p.m. E.S.T. on November 18, 1996.

SEARS POINT RACEWAY SPEEDWAY MOTORSPORTS, INC.

By: /s/ Skip Berg
Title: Chairman
Date: October 24, 1996

By: /s/ O. Bruton Smith
Title: Chief Executive Officer
Date: October 24, 1996

Exhibit 99.2

**MASTER GROUND LEASE
WITH OPTION TO PURCHASE**

This lease is made this 18th day of November, 1996, (the "execution date") by and between Brenda Raceway Corporation, a California corporation ("Lessor") and Speedway Motorsports, Inc. ("Lessee").

Lessor leases to Lessee and Lessee hires from Lessor, the Premises described below in this lease on the following terms and conditions:

1. **PREMISES.** The Premises shall consist of the real property and all appurtenances and improvements thereto and thereon (the "Premises"), located in the County of Sonoma, State of California described in Exhibit A attached hereto.
2. **TERM.** The term of this lease shall commence on November 19th, 1996 (the "Commencement Date") and shall terminate October 31, 2010, unless sooner terminated as provided in this lease.
3. **MASTER LEASE; NO PARTNERSHIP.** Lessee accepts this Lease and the Premises subject to all existing tenancies and leases which Lessor warrants are set forth on Exhibit C attached hereto ("the Subleases"). Lessor assigns to Lessee all of Lessor's rights under the Subleases subject to the provisions of paragraph 12.3 below, and Lessee hereby assumes all of Lessor's obligations and liabilities under the Subleases. Lessee will indemnify and hold Lessor harmless from all claims and liabilities on account of any breach by Lessee of the obligations hereby assumed by Lessee under such Subleases. Nothing in this lease shall cause Lessor to become or be deemed a partner, associate or joint venturer with Lessee for any purpose, nor to create any relationship with the Lessee other than that of landlord and tenant, nor shall this lease be construed to authorize either to act as agent for the other except as expressly provided to the contrary in this lease.
4. **RENT.** Lessee shall pay to Lessor the following sums as rent, all of which sums shall, unless otherwise specified, be paid on the first day of each month, in advance and without abatement, deduction or offset, except as otherwise provided herein, prorated for any partial month during which the rent shall be due:
 - 4.1 **MINIMUM RENT.** Lessee shall pay to Lessor the following amounts as rent during the term of this lease:

PERIOD:	MINIMUM ANNUAL RENT:	PAYABLE IN INSTALLMENTS AS FOLLOWS:
November 1996 thru December 1996	N/A	Monthly installments of \$66,666.67 in advance on the 1st day of each calendar month (prorated for November 1996)
January 1997 thru December 1997	\$800,000.00	Monthly installments of \$66,666.67 in advance on the 1st day of each calendar month.
January 1998 thru December 1998	\$2,800,000.00	Monthly installments of \$233,333.33 in advance on the 1st day of each calendar month.
January 1999 thru December 1999	\$2,800,000.00	Monthly installments of \$233,333.33 in advance on the 1st day of each calendar month.
January 2000 thru December 2000	\$4,800,000.00	Monthly installments of \$400,000.00 in advance on the 1st day of each calendar month.
January 2001 and thereafter	\$5,800,000.00 subject to adjustments per paragraph 4.2 below.	Monthly installments of 1/12 of the minimum annual rent in advance on the 1st day of each calendar month.

4.2 ADJUSTMENTS TO RENT. Commencing on January 1, 2002 and on each January 1st thereafter during the remaining term of the lease (each an "adjustment date") the minimum annual rent of \$5,800,000,00 shall be adjusted, as follows:

a. The base for Computing the adjustment is the Consumer Price Index, All Items, for the San Francisco-Oakland-San Jose consolidated Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics (82-84 = 100) ("Index"), which is published for the month nearest the Commencement Date ("Beginning Index"). If the Index published nearest the Adjustment Date ("Extension Index") has increased over the Beginning Index, the Minimum Annual Rent for the following period (until the next rent adjustment) shall be set by multiplying \$5,800,000.00 by a fraction, the numerator of which

is the Extension Index and the denominator of which is the Beginning Index. Notwithstanding the foregoing, in no event shall the Minimum Annual Rent be less than such rent as adjusted under this paragraph in effect for the immediately preceding year.

b. After the adjustment date of the Minimum Annual Rent as provided for in this Lease, Lessor shall deliver to Lessee written notice stating the new Minimum Annual Rent. However, the adjustment of rent shall become effective upon each adjustment date without notice or demand. In the event the information concerning the Extension Index is not readily available on an adjustment date, Lessee shall continue to pay rent at the rates for the previous period until such time as the Extension Index information is available, at which the Lessee shall pay any additional amounts due since the adjustment date and commence payment of the adjusted amount. Neither the failure of Lessor to give notice or demand of the adjustment, nor the acceptance by Lessor of rent in a different amount shall constitute a waiver of any adjustment or shall excuse the payment of any rent or adjustment.

c. If the Index is changed so that the base year differs from that used as of the month immediately preceding the month in which the term commences, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4.3 LATE CHARGE. If any monthly rent, or any other sum due under this lease is not received by Lessor within 10 days following written notice from Lessor given to Lessee on or after the due date thereof, Lessor shall have the right to add and collect a late charge equal to three percent (3%) of the amount due, which amount shall be considered due and payable as of the date such right exists.

4.4 COVENANT TO OPERATE BUSINESS. Lessee shall continuously and without interruption use, occupy and operate the Premises during the entire term of this Lease, for the purposes provided in Paragraph 7, in a commercially reasonable fashion, unless prevented from doing so by causes beyond Lessee's control.

4.5 ABSOLUTE NET LEASE. It is the intention of Lessee and Lessor that the rent herein specified shall be net to Lessor during the lease term. All costs, expenses and obligations of every kind relating to the Premises (except as may be specifically otherwise provided in this Lease) shall be paid by Lessee, and Lessor shall be indemnified by Lessee against all such costs, expenses and obligations.

5. UTILITIES, ETC. Lessee shall pay promptly when due, all water, gas, heat, light, power, telephone, and other utilities and other services supplied to the Premises, together with any taxes thereon.

6. SECURITY DEPOSIT. Lessee shall deposit with Lessor upon execution hereof a cash security deposit in the amount of Three Million Dollars (\$3,000,000.00) as security for Lessee's faithful performance of Lessee's obligations hereunder. If Lessee defaults, pursuant to Section 16 hereof, after the expiration of all applicable cure periods. Lessor may (but shall not be required to) use, apply or retain all or any portion of said deposit for the payment of any rent or other charge in default for the payment of any other sum to which Lessor may become obligated by reason of Lessee's default, or to compensate Lessor for any loss or damage which Lessor may suffer thereby. If Lessor so uses or applies all or any portion of said deposit, Lessee shall within ten (10) days after written demand therefor deposit cash with Lessor in an amount sufficient to restore said deposit to the full amount then required of Lessee. Lessor shall not be required to keep said security deposit separate from its general accounts. If Lessee performs all of the Lessee's obligations hereunder, said deposit, or so much thereof as has not heretofore been applied by Lessor, shall be returned, without payment of interest or other increment for its use, to Lessee (or, at Lessor's option, to the last assignee, if any, of Lessee's interest hereunder) at the expiration of the term hereof, and after Lessee has vacated the Premises. No trust relationship is created herein between Lessor and Lessee with respect to said Security Deposit, and under no circumstances shall Lessor be required to keep the Security Deposit separate from its other funds or in an interest-bearing account, nor shall Lessee be entitled to any interest on such amounts regardless of whether or not the Security Deposit is deposited in an interest-bearing account. In the event that the option in paragraph 23 is exercised, then any unused Security Deposit will be returned to Lessee upon the closing.

7. USE OF PREMISES. Lessee shall use and permit the use of the Premises primarily for the maintenance, construction and operation of an industrial park and a race track and motorsports facility and for such other recreational, commercial and light industrial uses as may be permitted under applicable laws and land use regulations, and for no other purpose without Lessor's prior written consent, which shall not unreasonably be withheld so long as such use does not violate any restrictive agreement or covenant by which Lessor is bound on Exhibit B.

8. REAL PROPERTY TAXES.

8.1 PAYMENT OF TAXES: Lessee, as additional rent, shall pay prior to delinquency, the real property tax, applicable to the Premises, together with the amount of any fine, interest or penalty which shall become due or be imposed by operation of law for any delinquency or nonpayment which may be attributable to the delinquency or nonpayment of these supplemental payments. Lessor shall provide Lessee with a copy of each tax bill and notice of assessment within 15 days after it is received by Lessor. Lessee may contest the legal validity or amount of any taxes, assessments or charges under this provision, and may institute such proceedings as Lessee considers necessary so long as it is without cost or expense to Lessor. Any contest which may be filed by Lessee shall not relieve Lessee of the obligation of paying the real property taxes.

8.2 DEFINITION OF "REAL PROPERTY TAX." As used herein, the term "real property tax" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any improvement bond or bonds, levy or tax (other than inheritance, personal income, withholding, or estate taxes) imposed on the Premises or any portion thereof by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Lessor in the Premises or in any portion thereof. The tem "real property tax" shall also include (unless otherwise excluded) any tax, fee, levy, assessment or charge (i) in substitution of, partially or totally, of any tax, fee, levy, assessment or charge hereinabove included within the definition of "real property tax" or (ii) the nature of which was hereinbefore included within the definition of "real property tax" or (iii) which is imposed for a service or right not charged prior to June 1, 1978, or, if previously charged, has been increased since June 1, 1978, or (iv) which is imposed as a result of a change in ownership, as defined by applicable local statutes for property tax purposes (but excluding any transfer tax which Lessor is obligated to pay if Lessee purchases the Premises pursuant to Section 23) of the Premises or which is added to a tax or charge hereinbefore included within the definition of real property tax by reason of such change of ownership, or (v) which is imposed by reason of this Lease, any modifications or changes hereto, or any transfers hereof.

8.3 PERSONAL PROPERTY TAXES: Lessee shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Lessee contained in the Premises.

9. CONSTRUCTION; CONDITION OF PREMISES.

9.1 PREMISES AS-IS: Except as otherwise provided in this Lease, Lessee hereby accepts the Premises in their condition existing as of the date that Lessee takes possession of the Premises, subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any easements, covenants, restrictions of record and other matters, all of which Landlord warrants are reflected in Exhibit B attached (the "Permitted Exceptions"), and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto Lessee acknowledges that it has satisfied itself by its own independent investigation that the Premises are suitable for its intended use. Neither Lessor nor Lessor's agents make any representation or warranty about the Premises either as to the present or future suitability of the Premises for the conduct of Lessee's business or for any other purpose, or any other matter including but not limited to the state of title, physical condition of the property, or the presence or absence of toxic or hazardous wastes or contamination, and disclaims any and all representations and warranties except as otherwise expressly set forth herein. Lessee covenants that it has, at its own cost and expense, performed such investigations and tests as it deems necessary.

9.2 CONSTRUCTION OF IMPROVEMENTS ON PREMISES. At any time and from time to time during the term of this lease, subject to any title restrictions shown on Exhibit B and limitations imposed by law or applicable governmental regulation, Lessee may construct, alter, replace, relocate, reconstruct or otherwise make improvements on the Premises, provided Lessee is not then in default pursuant to Section 16 hereof, after the expiration of all applicable cure periods and provided Lessee provides Lessor with the notice and lien protection rights described in paragraph 9.3 below, and further provided that Lessee may only demolish or remove such improvements as are promptly replaced with improvements of substantially equal or greater value. All salvage shall belong to Lessee. All improvements to the premises shall be done in conformity with the design review and building code requirements of the County of Sonoma and any other governmental authority having jurisdiction over the premises pursuant to plans and specifications. All work done by Lessee shall be performed in a good and workmanlike manner, and shall be completed expeditiously and in a way which will not create any hazard or material nuisance on the site. In the event of any permitted demolition, the premises shall be left clean and free of all debris and properly compacted and graded in compliance with all applicable laws and governmental regulations.

9.3 PROTECTION OF LESSOR AGAINST COST OR CLAIM. Lessee shall give Lessor at least 30 days written notice prior to the commencement of any work to permit Lessor to post notices of non-responsibility or otherwise protect Lessor's interest in the Premises against liens and encumbrances, including but not limited to mechanics' liens. Lessee shall pay or cause to be paid the total cost and expense of all works of improvement, as that phrase is defined in the Mechanics' Lien Law of the state of California performed by or on behalf of Lessee. No such payment shall be construed as rent except as otherwise expressly provided in section 4.3 above. Lessee shall not suffer or permit to be enforced against the Premises or any part of it, any mechanic's, materialmen's, contractor's or subcontractor's lien arising from any work of improvement performed by or on behalf of Lessee, however it may arise. However, Lessee may in good faith and at Lessee's own expense contest the validity of any such asserted lien, claim or demand provided Lessee has furnished the bond required in California Civil Code Section 3143 or any comparable statute hereinafter enacted. Lessee shall defend and indemnify Lessor against all liability and loss of any type arising out of work performed on the Premises by Lessee, together with reasonable attorneys' fees and all reasonable costs and expenses incurred by Lessor in negotiating, settling, defending or otherwise protecting against such claims.

9.4 LESSOR'S RIGHT TO DISCHARGE LIEN. If Lessee does not cause to be recorded the bond described in California Civil Code Section 3143 or any alternative or successor statute, or otherwise protect the Premises, and a final judgment has been rendered against Lessee by a court of competent jurisdiction for the foreclosure of a mechanic's, materialmen's, contractor's or subcontractor's lien claim, and if Lessee fails to stay the execution of the judgment by lawful means or to pay the judgment, Lessor shall have the right, but not the duty, to pay or otherwise discharge, stay or prevent the execution of any such judgment or lien. Lessee shall within 30 days following notice and demand from Lessor

reimburse Lessor for all sums paid by Lessor under this paragraph together with all Lessor's reasonable attorneys' fees and costs, plus interest on those sums, fees and costs at the rate of the lesser of 13% per annum or the maximum rate allowed by law from the date of payment until the date of reimbursement.

9.5 COMPLETION. Once any work of improvement is begun, Lessee shall with reasonable diligence prosecute to completion all construction of such improvements, additions, alterations and other work.

9.6 NOTICE OF COMPLETION. On completion of any substantial work of improvement during the term performed by Lessee, Lessee shall file or caused to be filed a notice of completion.

9.7 LESSOR'S APPROVAL. Prior to the commencement of any major work of construction, alteration or repair of improvements, and before any building materials have been delivered to the Premises by Lessee or under Lessee's authority or promptly thereafter, Lessee shall, if requested in writing by Lessor, comply with all the following conditions or procure Lessor's written waiver of the condition as conditions specified in the waiver:

a. Deliver to Lessor a set of preliminary construction plans and specifications prepared by an architect or engineer licensed to practice as such in the State of California. All improvements shall be constructed within the exterior property lines and approved setback lines of the Premises; provided, that required work beyond the Premises on utilities, access and conditional use requirements do not violate this provision.

b. Deliver to Lessor (a) certificates of insurance evidencing coverage for "builders' risk", (b) evidence of Worker's Compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against Lessor or the Premises, and (c) evidence that Lessee has paid or caused to be paid all premiums for the coverage described above in this subparagraph and any increase in premiums on insurance in this subparagraph provided for in the paragraph on insurance, sufficient to assure maintenance of all insurance above during the anticipated course of the work. Lessee shall maintain, keep in force, and pay all premiums required to maintain and keep in force all insurance in this subparagraph above at all times during which such work is in progress.

10. LESSEE'S OBLIGATION TO MAINTAIN PREMISES.

10.1 DUTY TO MAINTAIN. Throughout the term of this lease, Lessee shall, at Lessee's sole cost and expense, maintain the Premises and all improvements and appurtenances thereon in no less than the condition and repair, at the execution of this lease, ordinary wear and tear excepted, and in accordance with (a) all applicable laws, rules, ordinances, orders and regulations of federal, state, county, municipal and other governmental

agencies and bodies having jurisdiction and all their respective departments, bureaus and officials; (b) the insurance underwriting board or insurance inspection bureau having or claiming jurisdiction; and (c) all insurance companies insuring all of or any part of the Premises or improvements, or both. Except as provided below, Lessee shall promptly and diligently repair, restore and replace all improvements damaged or destroyed.

10.2 LIMITATION OF LESSEE'S DUTY. Nothing in this provision defining the duty of maintenance shall be construed as limiting any right given elsewhere in this lease to alter, modify, demolish, remove or replace any improvement.

10.3 RIGHT TO CONTEST GOVERNMENTAL ORDER. Lessee has the right to contest by appropriate judicial or administrative proceedings, without cost or expense to Lessor, the validity or application of any law, ordinance, order, rule, regulation, or requirement ("law") including any law that Lessee repair, maintain, alter, or replace the improvements in whole or in part, and Lessee shall not be in default for contesting such law or failing to do such work until a reasonable time following final determination of Lessee's contest. Lessor may, but is not required to, contest any such law independently of Lessee. Lessor may, and on Lessee's notice of request shall, join in Lessee's contest so long as it is at Lessee's sole cost and expense. In the event Lessee requests Lessor to so join in any such contest, Lessee shall, upon Lessor's demand, pay the reasonable cost of legal and other professional services incurred by Lessor in connection therewith. Except as may be otherwise expressly provided herein, no rent, supplemental payments, adjusted rent or other payment or performance of any kind which may become due from Lessee hereunder shall be waived, terminated, abated, adjusted, refunded, delayed, excused or modified on account of the effect, adverse or otherwise, on Lessee or Lessee's use of the Premises, of any law.

11. OWNERSHIP OF IMPROVEMENTS.

11.1 OWNERSHIP OF IMPROVEMENTS DURING TERM. All improvements constructed by Lessee on the Premises shall be owned by Lessee until expiration of the term or sooner termination of this lease. Unless Lessor requires their removal, as set forth in Paragraph 11.2 below, all alterations, improvements, additions and utility installations (whether or not such utility installations constitute trade fixtures of Lessee), which may be made on the Premises, shall become the property of Lessor and remain upon and be surrendered with the Premises at the expiration of the term, maintained and repaired in accordance with the provisions of this lease, ordinary wear and tear excepted.

11.2 REMOVAL OF TRADE FIXTURES, SIGNS AND ADVERTISING DEVICES. As a material part of the consideration for this lease, Lessee hereby covenants and agrees that Lessee, at Lessee's sole cost and expense, shall, within 30 days following the expiration or earlier termination of this Lease, remove or cause to be removed all or any of the additional improvements located on the Premises constructed by Lessee, including the demolition and removal of buildings, concrete, pavement, foundations, underground storage tanks,

underground utilities and all related plumbing and debris, as Lessor may designate by written notice to Lessee upon the expiration or termination of this lease. The duty imposed by this provision includes, without limitation, the duty to fill all excavations, return the surface to grade, and leave the Premises safe and free from debris and any hazardous materials. Lessee shall remove only those improvements as may be designated by written notice from Lessor and all improvements not so designated shall be surrendered with the Premises pursuant to the provisions of Paragraph 11.1 above and shall be the property of Lessor. Notwithstanding anything herein to the contrary, at the expiration of the term or sooner termination of this lease, Lessee shall have the right to remove at its own cost and expense, Lessee's machinery, tools and mechanical equipment, trade fixtures (other than that which is affixed to the Premises so that it cannot be renovated without material damage to the Premises unless Tenant repairs such damage), signs, advertising devices and other trademarked, servicemarked or copyrighted items, equipment and other personal property provided all resultant injuries to the Premises are completely remedied and Lessee leaves any building remaining on the Premises in structurally sound condition ordinary wear and tear and damage by casualty excepted and with an integrated interior and exterior appearance reasonably acceptable to Lessor.

12. ASSIGNMENT; SUBLETTING. Lessee shall not assign, encumber, or otherwise transfer this lease or any interest hereunder without the Lessor's prior written consent, which consent Lessor agrees not to unreasonably withhold, condition or delay. Notwithstanding the foregoing, Lessee may, without Lessor's consent assign this Lease to any wholly owned subsidiary owned by Lessee. The consent by Lessor to any Assignment shall not constitute a consent to any subsequent Assignment by Lessee or to any subsequent or successive Assignment by the Assignee. Lessor's written consent to any Assignment of the Premises by Lessee shall not constitute an acknowledgment that no default then exists under this Lease of the obligations to be performed by Lessee nor shall such consent be deemed a waiver of any then existing default, except as may be otherwise stated by Lessor at the time. Before any Assignment of this Lease is effective,

(1) said Assignee shall agree to be liable for and bound by all obligations of Lessee arising under this Lease on and after the effective date of such Assignment and (2) Lessor shall be given written notice of such Assignment and assumption. Any such Assignment shall not, in any way, affect or limit the liability of Lessee under the terms of this Lease, even if after such Assignment, the terms of this Lease are materially changed or altered without the consent of Lessee, the consent of whom shall not be necessary.

Notwithstanding the foregoing, Lessor hereby consents to Lessee subleasing all or less than the entirety of the Premises at market rental rates, upon commercially reasonable terms and conditions, and in the ordinary and usual course of Lessee's business, subject to the following terms and conditions:

12.1 This blanket consent will not be deemed or construed to modify, waive, or affect any of the provisions, covenants, or conditions of the Lease, waive any breach of this Lease or any of the rights of Lessor, or enlarge or increase Lessor's obligations under this Lease.

12.2 All subleases shall be on a lease form approved in advance by Lessor.

12.3 No sublease shall be made which extends beyond the term of this Lease.

Regardless of Lessor consent, no assignment or sublease shall release Lessee of Lessee's obligations hereunder or alter the primary liability of Lessee to pay the rent and other sums due Lessor hereunder, and to perform all other obligations to be performed by Lessee hereunder.

Lessee hereby assign and transfers to Lessor all of Lessee's interest in all rentals and income arising from any assignment or sublease, and Lessor may collect such rent and income and apply same toward Lessee's obligations under this Lease; provided, however, that until a default (pursuant to Section 16 hereof and after the expiration of all applicable cure periods) shall occur in the performance of Lessee's obligations under this Lease, Lessee may receive, collect and enjoy the rents accruing under such assignment or sublease. Lessor shall not by reason of the collection of the rents from an assignee or subtenant, be deemed liable to the assignee or subtenant for any failure of Lessee to perform and comply with any of Lessee's obligations to such assignee or subtenant under any assignment or sublease. Lessee hereby irrevocably authorizes and directs any such assignee and subtenant, upon receipt of a written notice from Lessor stating that a default (pursuant to Section 16 hereof and after the expiration of all applicable cure periods) exists in the performance of Lessee's obligations under this Lease, to pay to Lessor the rents due and to become due under the assignment or sublease. Lessee agrees that such assignee or subtenant shall have the right to rely upon any such statement and request from Lessor, and that such assignee or subtenant shall pay such rents to Lessor without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Lessee to the contrary. Lessor warrants to only send assignees or subtenants notice after a default (pursuant to Section 16 hereof and after the expiration of all applicable cure periods).

12.4 In granting this blanket consent, it is understood and agreed that (a) Lessor will not be bound by the sublease, (b) no rights will be granted to any subtenant under any sublease that are greater than those granted to Lessee under this Lease, and (c) every sublease will be subordinate to this Lease; in the event of any conflict between the terms and provisions of this Lease and the terms and provisions of the sublease, the terms and provisions of this Lease will prevail.

12.5 Lessor will not be liable for any cost or obligation of any kind arising in connection with any sublease, including, without limitation, brokerage commissions, improvements to the subleased premises, or the security deposit required to be made by subtenant under any sublease. Lessee agrees to indemnify, protect, defend, and hold Lessor harmless from all claims, losses, liabilities, costs, and expenses (including reasonable attorney fees) that Lessor may incur as a result of any claim to pay any person or entity any commission, finder's fee, or other charge in connection with any sublease entered into by Lessee.

12.6 On the effective date of the expiration of the term of this Lease, or Lessee's surrender of the premises under this Lease to Lessor, the sublease and its term will, at Lessor's option, immediately terminate. If this Lease expires or terminates for any reason during the term of any sublease, or if Lessee surrenders this Lease to Lessor during the term of any sublease, Lessor shall have the option, on written notice delivered to subtenant not more than thirty (30) days after the effective date of the expiration, termination, or surrender, and without any additional or further agreement of any kind by subtenant, to elect to continue the sublease with the same effect as if Lessor and subtenant had entered into a lease for that date and for a term equal to the then unexpired term of the sublease, and on the same terms and conditions in the sublease. In that event, subtenant will attorn to Lessor, and Lessor and subtenant will have the same rights, obligations, and remedies under the sublease as were had by Lessee and subtenant. However, in no event will Lessor

(a) be liable for any act or omission of Lessee, (b) be subject to any offsets or defenses that any subtenant had or might have against Lessee, (c) be obligated to cure any default of Lessee that occurred prior to the time that Lessor succeeded to the interest of Lessee under the sublease, (d) be bound by any payment of rent or other payment paid by subtenant to Lessee in advance of any periods reserved for that in the sublease, or (e) be liable for the return of any security deposit not actually received by Lessor.

13. INSURANCE; INDEMNITY.

13.1 LIABILITY INSURANCE-LESSEE: Lessee shall, at Lessee's expense, obtain and keep in force during the term of this Lease a policy of Comprehensive General Liability insurance utilizing an Insurance Services Office standard form with Broad Form General Liability Endorsement (GL0404), or equivalent, in an amount of not less than Twenty Million Dollars (\$20,000,000) per occurrence of bodily injury and property damage combined ("the Minimum Liability Insurance Amount"), in 1996 dollars, and shall insure Lessee with Lessor as an additional insured against liability arising out of the use, occupancy or maintenance of the Premises. The Minimum Liability Insurance Amount set forth in this paragraph shall be adjusted on each date during the term of this Lease (each, an "Insurance Adjustment Date"), when such adjustment would result in an increase of 25% or more in the then current Minimum Liability Insurance Amount, when calculated as follows:

a. The base for computing the adjustment is the Beginning Index. If the Index published nearest the Insurance Adjustment Date ("Insurance Extension Index") has increased over the Beginning Index, the sum of \$20,000,000 shall be multiplied by a fraction, the

numerator of which is the Insurance Extension Index and the denominator of which is the Beginning Index the resulting amount is 125% or more of the Minimum Liability Insurance Amount in effect for the preceding 12 month period, then the Minimum Liability Insurance Amount shall be immediately adjusted to such increased amount, until the next Insurance Adjustment Date. Notwithstanding the foregoing, the Minimum Liability Insurance Amount shall in no event be less than \$20,000,000.

b. On adjustment of the Minimum Liability Insurance Amount as provided for in this Lease, Lessor shall deliver to Lessee written notice stating the new Minimum Liability Insurance Amount.

Compliance with the above requirement shall not, however, limit the liability of Lessee hereunder.

13.2 PROPERTY INSURANCE-LESSEE: Lessee shall, at Lessee's expense, obtain and keep in force during the term of this Lease for the benefit of Lessee and Lessor, replacement cost all-risks insurance, including without limitation fire and extended coverage insurance, utilizing Insurance Services Office standard form, or equivalent providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, plate glass, and with sprinkler leakage, earthquake, and flood endorsements in an amount sufficient to cover not less than 100% of the full replacement costs, as the same may exist from time to time, covering loss or damage to the buildings and other improvements included within the Premises, and all of Lessee's personal property, fixtures, equipment and tenant improvements. Lessee shall also procure and keep in force in form and coverage reasonably satisfactory to Lessor:

a. Insurance covering damage to the Premises, liability and remedial compliance for damages, claims and losses resulting from or arising out of environmental contamination or the discharge of Hazardous Materials, as defined in section 16 below.

b. If Lessee commits, permits, or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating unusual hazards, Lessee shall, promptly on notice of demand from Lessor, procure and maintain in force, during such activity or operation, insurance sufficient to cover the risks represented thereby. Lessor's demand for unusual hazard insurance shall not constitute a waiver of Lessor's right, if Lessor would otherwise have that right, to demand the removal, cessation, or abatement of such activity or operation.

Provided however, with the exception of standard fire and extended coverage insurance on the structures, Lessee, upon written notification and certification to Lessor, shall have the right to self-insure the risks described in this paragraph 13.2.

13.3 INSURANCE POLICIES: Lessee shall deliver to Lessor copies of insurance policies required under paragraph 13 or certificates evidencing the existence and amounts of such insurance within seven (7) business days after the Commencement Date of this Lease. No such policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Lessor. Lessee shall, at least thirty (30) days prior to the expiration of such policies, furnish Lessor with renewals thereof. Each policy required to be obtained by Lessee hereunder shall: (a) be issued by insurers authorized to do business in the state in which the Premises is located and rated not less than financial class X, and not less than policyholder rating A, in the most recent version of Best's Key Rating Guide, or the equivalent rating (provided that, in any event, the same insurance company shall provide the coverage's described above); (b) be in form reasonably satisfactory from time to time to Lessor and Lessee; (c) Lessee shall be named insured under Lessee's policies and shall name Lessor and, at Lessor's request, Lessor's mortgagees of which Lessee has been informed in writing, as additional insured; (d) not have a deductible amount exceeding Five Thousand Dollars (\$5,000.00); (e) specifically provide that the insurance afforded by such policy shall be primary, and any insurance carried by the other party shall be excess and non-contributing; (f) except for worker's compensation insurance, contain an endorsement that the insurer waives its right to subrogation as described in paragraph 13.4 below; and (g) contain an undertaking by the insurer to notify Lessor (and the mortgagees who are named as additional insured) in writing not less than thirty (30) days prior to any material change, reduction in coverage, cancellation or other termination thereof. Lessee agrees to deliver to Lessor, as soon as practicable after the placing of the required insurance, but in no event later than ten (10) days after the date Lessee takes possession of all or any part of the Premises, certified copies of each such insurance policy (or certificates from the insurance company evidencing the existence of such insurance and Lessee's compliance with the foregoing provisions of this paragraph 13). Lessee shall cause replacement policies or certificates to be delivered to Lessor, not less than thirty (30) days prior to the expiration of any such policy or policies. If Lessee subleases the Premises pursuant to the provisions below, the subtenant's compliance with the provisions of this paragraph 13 shall satisfy Lessee's insurance obligations.

13.4 WAIVER OF SUBROGATION: Lessee and Lessor each hereby release and relieve the other, and waive their entire right of recovery against the other, for direct or consequential loss or damage arising out of or incident to the perils covered by property insurance carried by such party, whether due to the negligence of Lessor or Lessee or their agents, employees, contractors and/or invitees. If necessary all property insurance policies required under this Lease shall be endorsed to so provide.

13.5 INDEMNITY: Lessee shall indemnify and hold harmless Lessor and its agents, partners and lenders, from and against any and all claims for damage to the person or property of anyone or any entity arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done, permitted or suffered by Lessee in or about the Premises or elsewhere, or arising from any act or omission of Lessee, or any of

Lessee's agents, contractors, employees or invitees during the term and from and against all costs, attorneys' fees, expenses and liabilities incurred by Lessor as the result of any such use, conduct, activity, work, things done, permitted or suffered, and in dealing reasonably therewith, including but not limited to the defense or pursuit of any claim or any action or proceeding involved therein excluding the acts and omissions of Lessor, its agents, contractors and employees; and in case any action or proceeding be brought against Lessor by reason of any such matter, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be so indemnified.

Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property of Lessee or injury to persons, in, upon or about the Premises arising from any cause and Lessee hereby waives all claims in respect thereof against Lessor.

13.6 EXEMPTION OF LESSOR FROM LIABILITY: Lessee hereby agrees that except for Lessor's active negligence or bad faith occurring after the commencement of the Lease: (a) Lessor shall not be liable for injury to Lessee's business or any loss of income therefrom or for loss of or damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Premises or the Premises; (b) Lessor shall not be liable for injury to the person of Lessee, Lessee's employees, agents or contractors, whether such damage or injury is caused by or results from theft, fire, team, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipe, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Premise or upon other portions of the Premises, or from other sources or places, or from new construction or the repair, alteration or improvement of any part of the Premises, or of the equipment, fixtures or appurtenances applicable thereto, and regardless of whether the cause of such damage or injury or the - means of repairing the same is inaccessible; and (c) Lessor shall not be liable for any damages arising from any act or neglect of any other lessee, occupant or user of the Premises.

13.7 OTHER INSURANCE. Lessee may procure and maintain any insurance not required by this lease.

13.8 FAILURE TO MAINTAIN INSURANCE; PROOF OF COMPLIANCE. As often as any such required policy or policies shall expire or terminate, renewal or additional policies shall be procured by Lessee as appropriate in a like manner and to like extent. Copies of certificates of any such policies shall be delivered to Lessor within thirty (30) days after receipt of such information. Lessee shall not conduct on the Premises any racing event or other hazardous activity at any time when the liability insurance required by paragraph 13.1 is not in full force and effect. In addition to any other remedy, Lessor shall have the right to obtain an injunction, without bond, to enforce the provision in the preceding sentence.

If Lessee fails or refuses to procure or to maintain insurance as required by the lease or fails or refuses to furnish Lessor with required proof that the insurance has been procured and is in force and paid for, Lessor shall have the right, at Lessor's election on 30 days' notice, to procure and maintain such insurance. The premiums paid by Lessor shall be due from Lessee on demand with interest at the rate of 13 percent per year not to exceed the maximum rate allowable by law, to be paid in full on the first day of the month following the date on which the premiums were paid. Lessor shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

14. CONDEMNATION.

14.1 DEFINITIONS. The following definitions apply in construing provisions of this lease relating to a taking of or damage to all or any part of the Premises or improvements or any interest in them by eminent domain or inverse condemnation:

a. "Taking" means the taking or damaging, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in consideration or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation, in avoidance of an exercise of eminent domain, or while condemnation proceedings are pending. The taking shall be considered to take place as of the later of (i) the date actual physical possession is taken by the condemnor or (ii) the date on which the right to compensation and damages accrues under the law applicable to the Premises.

b. "Total taking" means the taking of the fee title to all the Premises and improvements on the Premises, which shall be considered to include any offsite improvements effected by Lessee to serve the Premises or the improvements on the Premises. A total taking shall be deemed to have occurred upon the earlier of the condemnor's taking title to or possession of the Premises.

c. "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions result:

- (1) In the sole reasonable opinion of Lessee, the conduct of Lessee's business on the Premises would be substantially prevented or impaired.
- (2) The remaining Premises would not be economically and feasibly usable by Lessee,
- (3) The improvements would be other than reasonably efficient or economic for Lessee's use.

(4) A reasonable amount of reconstruction would not make the land and improvements a practical improvement and reasonably suited for Lessee's continued occupancy for the uses and purposes of which the Premises are leased.

(5) In the sole reasonable opinion of Lessee, the portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete, rentable structure, capable of producing a proportionately fair and reasonable net annual income after payment of all operating expenses, the fixed rent (as reduced as a result of the taking), additional rent, and all other charges payable under this lease, and after performance of all covenants and conditions required of Lessee by law and under this lease.

d. "Partial taking means any taking of the fee title that is not either a total or substantial taking.

e. "Improvements means all products of skill, artifice, plan or design for construction on, modification of, or planned use of existing structures, natural or cultivated, or earth contours on the Premises, including but not limited to: buildings, structures, fixtures, fences, utility installations, excavations, surfacing, water banks or channels, and grading; fruit, nut-bearing, and ornamental trees, bushes, and vines, whether occurring on the Premises naturally or emplaced by human design or effort, and whether coming into being on the Premises before or after commencement of the term; landscaping, ground cover, crops, planting, and earth contours forming part of a landscaping design: and artistic and ornamental components of any of the above.

f. "Notice of intended taking" means any notice or notification on which a reasonably prudent man would rely and on which he would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal. It includes but is not limited to the service of a condemnation summon and complaint on a party to this lease. The notice is considered to have been received when a party to this lease receives from the condemning agency or entity a notice of intent to take, in writing, containing a description or map of the taking reasonably defining the extent of the taking.

g. "Award" means compensation paid for the taking whether pursuant to judgment or by agreement or otherwise.

14.2 NOTICE TO OTHER PARTY. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, content, and date of the notice received:

a. Notice of intended taking;

b. Service of any legal process relating to condemnation of the Premises or improvements;

c. Notice in connection with any proceedings or negotiations with respect to such a condemnation; or

d. Notice of intent or willingness to make or negotiate a private purchase, sale, or transfer in lieu of condemnation.

14.3 REPRESENTATIVE OF EACH PARTY; EFFECTUATION. Lessor, Lessee, and all persons and entities holding under Lessee shall each have the right to represent his or its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of his or its claims. No agreement, settlement, sale, or transfer to or with the condemning authority shall be made without the consent of Lessor and Lessee. Lessor and Lessee each agree to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this lease relating to condemnation.

14.4 EXISTING LAW TO APPLY. In the event of a total, substantial, or partial taking, the rights of the parties with respect to the term, the rent, and the award shall be according to the law in effect at the time of the taking, except to the extent modified by the provisions of the lease.

14.5 TOTAL TAKING. On a total taking, Lessee's obligation to pay rent and Lessee's interest in the leasehold shall terminate on the date of taking. On a total taking, any award for improvements which were constructed by Lessee shall be allocated to the Lessee to the extent of the then fair market value of such improvements as such is established in the condemnation proceeding, or the depreciated book value of improvements at Lessee's option, and the balance, if any, to Lessor. Any relocation benefits, compensation for leasehold interest or damage to business goodwill of Lessee shall be retained by Lessee. Otherwise, all awards shall be the sole property of the Lessor. "Depreciated book value" shall mean the actual cost of construction of improvements constructed by Lessee depreciated in accordance with Lessee's bookkeeping practice for the improvement in question. "Costs of improvement" shall not include maintenance or repairs, but only new improvements made by Lessee.

14.6 SUBSTANTIAL TAKING. If the taking is substantial under the definition appearing above, Lessee may, by notice to Lessor given within 30 days after Lessee receive notice of intended taking, elect to treat the taking as a substantial taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. If Lessee gives such notice and Lessor gives Lessee notice disputing Lessee's contention within 30 days following Lessee's notice, the dispute shall be promptly determined by arbitration. If Lessor gives no such notice, the taking shall be considered a substantial taking. A substantial taking shall be treated as a total taking if (1) Lessee delivers possession to Lessor within 30 days after determination that the taking was a

substantial taking, and (2) Lessee is not in default under the lease and has complied with all lease provisions concerning apportionment of the award. If these conditions are not met, the taking shall be treated as a partial taking.

14.7 EARLY DELIVERY OF POSSESSION. Lessee may continue to occupy the Premise and improvements until the condemnor takes physical possession. However, at any time following notice of intended total taking, or within the time limit specified for delivery of possession in the provision on substantial taking, Lessee may elect to deliver possession of the Premises to Lessor before the actual taking. The election shall be made by notice declaring the election and covenanting to pay all rents required under this lease to the state of taking. Lessee's right to apportionment of or compensation from the award shall then accrue as of the date that Lessee goes out of possession.

14.8 PARTIAL TAKING.

A. EFFECT ON RENT, TERM. On partial taking this lease shall remain in full force and effect, covering the remaining property, except that the Minimum Annual Rent shall be adjusted upward or downward to reflect any change in the utility of the Premises to Lessee. In the event the parties are unable to agree upon a reduction within 30 days of a partial taking, the matter shall be submitted to arbitration.

B. RESTORATION OF IMPROVEMENTS. Promptly after a partial taking, at Lessee's expense and in the manner specified in provisions of this lease relating to maintenance, repairs, and alterations, Lessee shall repair, alter, modify, or reconstruct the improvements (restoring) so as to make them a practical improvement with the proceeds of the condemnation award.

C. DURING FINAL YEARS OF TERM. Lessee is relieved of the duty to, but may, restore the improvements if a partial taking occurs during the final five years of the term. The conditions of relief are:

(i) Within 30 days after Lessee receives notice of intended taking Lessee gives Lessor notice of election to claim the relief described in this provision;

(ii) Lessee complies with all conditions described as conditions in the provisions of this lease relating to damage or destruction during the final years of the term. If the conditions described in this provision are met, the award shall be apportioned as for a substantial taking, applying the requirement of this provision relating to Lessee's obligations; provided Lessee's right, title, and interest in the land, improvements, and leasehold estate shall continue until the taking is completed by deed, contract, or final order of condemnation

If all the foregoing conditions for relief are satisfied, and if the award specifically allocates a portion of the total award to restoration, the cost to restore shall be deducted from Lessee's share of the award and paid to Lessor.

14.9 TAKING OF LESS THAN FEE TITLE. On the taking, other than a temporary taking, of less than a fee title interest in the Premises or improvements or both, the question whether the taking is total, substantial, or partial, and the effects on term; rent, and apportionment of award shall be determined by the parties and if no agreement is reached, then by arbitration.

14.10 TAKING FOR TEMPORARY USE. On any taking of the temporary use of all or any part or parts of the Premises or improvements or both for a period, or of any estate less than a fee, ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way, and Lessee shall be entitled to any award for the use or estate taken.

If any such taking is for a period extending beyond the expiration date of the term, the taking shall be treated under the foregoing provisions for total, substantial, and partial taking.

14.11 PAYMENT OF LIENS, ETC. Lessee shall pay at the time of any taking all real and personal property taxes for which it is liable, all notes and other obligations of Lessee secured by liens or other interests in the Premises, if any, and any other current debt or obligation for which Lessee is responsible under the terms of this lease.

15. DAMAGE; DESTRUCTION. In the event the Premises or any improvements thereon is damaged from a risk covered or which should be covered by insurance carried or which should be carried by Lessee pursuant to Paragraph 13, Lessee shall promptly repair the damage to the condition existing immediately prior to such damage or destruction or to such other condition, and this lease shall remain in full force and effect. Lessee shall not be entitled to any reduction or abatement of rent in the event of any damage or destruction. Lessee shall be solely responsible for the repair of any damage or destruction to the extent not covered by insurance carried pursuant to paragraph 13 above and shall promptly repair or restore such damage at Lessee sole cost and expense. Lessee waives the provisions of California Civil Code Section 1932(2) and California Civil Code Section 1933(4) with respect to any destruction of the Premises.

16. DEFAULT; REMEDIES.

16.1 LESSEE'S DEFAULT. Each of the following events shall be a default by Lessee and a breach of this lease:

a. The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder as and when due, where such failure shall continue for a period of fifteen (15) days after written notice thereof from Lessor to Lessee. In the event that Lessor serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.

b. The failure by Lessee to observe or perform in any material respect any of the covenants, conditions or provisions of this Lease to be observed or performed by Lessee, other than described in subparagraph (a), where such failure shall continue for a period of thirty (30) days after written notice hereof from Lessor to Lessee: provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure then Lessee shall not be deemed to be in default if Lessee commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion.

c. (i) Lessee becomes a "debtor" as defined in 11 USC

Section 101 or any successor statute thereto (unless in the case of a petition filed against Lessee, the same is dismissed with 90 days); (ii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within sixty (60) days; or (iii) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within sixty (60) days. Provided, however, in the event that any provision of this paragraph is contrary to any applicable law, such provision shall be of no force or effect.

16.2 REMEDIES. In the event of any such material default or breach by Lessee after the expiration of all applicable cure periods, Lessor may at any time thereafter, in its sole discretion, exercise the following rights or remedies which it may have by reason of such default:

a. Lessor can continue this Lease in full force and effect (even though Lessee has abandoned the Premises) unless Lessor elects to terminate Lessee's rights to possession by a written notice. Lessor can enforce all its rights and remedies including the right to recover rent as it becomes due. In no event shall Lessor's acts of maintenance or preservation of the Premises, or Lessor's exercise of its rights under any other agreement between Lessor and Lessee, or the appointment of a receiver upon the initiative of Lessor (which shall be at Lessee's expense) to protect its interest under this Lease, be deemed to constitute a termination of Lessee's right to possession. Lessor may take whatever actions provided herein, or as permitted by law, without terminating this Lease, and this Lease shall continue in full force and effect until and unless Lessor gives to Lessee written notice of its election to terminate this Lease. After Lessee's default and for as long as Lessor does not terminate Lessee's right to possession of the Premises, Lessee may, with Lessor's prior written consent, assign this Lease or sublet the Premises but Lessee shall not be released from liability.

b. Lessor can elect to terminate this Lease at any time after the occurrence of any event of default by written notice, and if Lessor so elects may declare this Lease and Lessee's right to possession terminated, re-enter the Premises, remove Lessee's property therefrom with court order and at Lessee's expense, eject all persons from the property and recover damages from Lessee as provided. If re-entry is made after abandonment by Lessee, Lessor may consider any property belonging to Lessee and left on the Premises to have been abandoned. Lessor may utilize or dispose of such property without liability. Any such re-entry shall be permitted by Lessee without hindrance; and Lessor shall not thereby be liable in damages for such re-entry or be guilty of trespass or forcible entry. In the event Lessor elects to terminate this Lease and Lessee's right to possession in accordance with the above, or the same is terminated by operation of law, Lessor may recover as damages from Lessee the following:

- (1) The worth at the time of the award of the unpaid rent and other sums due hereunder which had been earned at the time of termination of this Lease and
- (2) The worth at the time of the award of the amount by which the unpaid rent and other sums due hereunder which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of such loss of rent and other sums due that Lessee proves could have been reasonably avoided; and
- (3) The worth at the time of the award of the amount by which the unpaid rent and other sum due hereunder for the balance of the Lease term after the time of award exceeds the amount of the loss of such rent and other sums that Lessee proves could be reasonably avoided; and
- (4) That portion of the leasing commission, if any, paid by Lessor and applicable to the unexpired term of this Lease; and
- (5) Any other amount, including reasonable attorneys' fees and court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award" of the amounts referred to in Paragraph 16.2(b)(1) and (2) above shall be computed by allowing interest at the annual rate of five percent plus the rate of interest charged by the San Francisco Federal Reserve Bank to member banks on the 25th day of the month prior to the due date of the sums due hereunder. The worth at the time of award" of the amount referred to in Paragraph 16.2(b)(3) above shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent.

c. During the period Lessee is in default, Lessor may elect, at Lessee's expense, to petition an appropriate court for and be entitled as a matter of right to, the appointment of a receiver who shall be vested with such powers and authority as may be necessary to fully protect all the rights of Lessor. Such receiver may take possession of any assets belonging to Lessee and used in the conduct of the business then being carried on by Lessee upon the Premises without compensation to Lessee.

d. Efforts by Lessor to mitigate the damages caused by Lessee's breach of this Lease shall not constitute a waiver of Lessor's right to recover damages under the foregoing provisions.

e. Nothing herein affects the right of Lessor to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damages as may be provided elsewhere in this Lease.

16.3 LIEN ON FIXTURES, ETC. Lessee hereby grants to Lessor a continuing personal property lien and security interest in (1) all fixtures, furnishings and equipment now owned or hereafter acquired by Lessee that are located in the premises and used in connection with the operation of Lessee' business in the premises and all proceeds from the sale or other disposition of such fixtures, furnishings and equipment, and (2) Lessee's interest under any lease of such fixtures, furnishings and equipment thereafter collectively referred to as the "Collateral"), as security for the full and faithful performance by Lessee of all of its obligations under the Lease. This lien and security interest are given in addition to Lessor's statutory lien, if any, and shall be cumulative thereto. Lessee hereby waives any exemption laws, to the extent permitted by law, as to the fixtures, furnishings and equipment that constitute part of the Collateral. Lessee shall keep the Collateral in good condition and repair and shall not remove the Collateral from the premises, provided that so long as Lessee is not in default under the Lease, Lessee shall have the right to discard or dispose of, in the ordinary course of its business in the premises, items of the Collateral which become broken, inoperable, obsolete or useless to the operation of Lessee's business in the premises, and provided further that Lessee shall replace all item of the Collateral necessary to keep the premises fully fixturized, furnished and equipped. As to any equipment lease that constitutes part of the Collateral, Lessee shall perform the terms thereof and not permit the same to be modified, amended or terminated without Lessor's prior written consent. If Lessor so elects, a breach of the foregoing Covenants shall constitute an event of default under this Lease. Upon the occurrence of an event of default under the Lease, Lessor shall have all of the rights and remedies provided for by law in respect to this security interest. Lessee hereby waives all right to require Lessor to proceed against Lessee or any other person, firm or corporation, to apply any Collateral it may hold at any time or to apply any Collateral in any order, or to pursue any other remedy whatsoever which it may possess. Lessee hereby authorizes and empowers Lessor to exercise its rights and remedies under this paragraph without taking any action against any other person, firm or corporation and without proceeding against or applying any Collateral held by it of for its benefit, in its sole discretion. At Lessor's request, concurrently with the execution of the Lease or at any time thereafter, Lessor and Lessee shall execute and file

appropriate Financing Statements covering the Collateral. Lessee shall execute and deliver to Lessor any further documents which it may reasonably request in order to perfect the security interest created hereby.

Notwithstanding the provisions of this paragraph 16.3, Lessor agrees that its lien and security interest under this paragraph shall be subordinated to any lien created by Lessee's existing secured loans and debentures.

16.4 REMEDIES CUMULATIVE. The foregoing remedies of Lessor shall be cumulative or alternative, as Lessor determines, and shall be in addition to all rights and remedies now or hereafter provided or allowed by law.

16.5 NO MERGER. No termination of this Lease shall cause a merger of the estates of Lessor and Lessee unless Lessor so elects.

16.6 ATTORNEY'S FEES. In the event of any action or proceeding brought by either party against the other under this Lease the prevailing party shall be entitled to recover for the reasonable fees of its attorney in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable as attorneys' fees.

16.7 LESSOR DEFAULT. If Lessor defaults in the observance or performance of any covenants, and conditions or agreements required to be performed and observed by Lessor, and such default shall continue for thirty (30) days after written notice by Lessee to Lessor specifying such default (or if such default is incapable of being cured in a reasonable manner within thirty (30) days then, if Lessor does not commence to cure the same within said thirty (30) day period and thereafter diligently prosecute the same to completion) and Lessor shall not thereafter cure such default, Lessee shall be entitled, in addition to all the remedies otherwise available in law or equity to pay any such amount due and offset such amount with interest at the rate of thirteen percent (13%) or the maximum rate allowable under law against all such due and owing under this Lease; provided, however the right to such offset shall not exceed \$500,000.

17. SUBORDINATION. This lease, at Lessor's option, shall be subordinate to any mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon the Premises by Lessor and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof, provided that every such mortgage, deed of trust, or other security device hereafter placed upon the Premises shall contain the provision that the holder thereof and any purchaser at a foreclosure sale shall recognize this lease and option to purchase and shall not disturb or deprive Lessee of the use and possession of the Premises so long as Lessee shall fully and faithfully comply with all the terms, covenants and provisions of this lease. Lessee agrees to execute any document required to effectuate such subordination or to make this lease prior to the lien of any mortgage or deed of trust, as the case may be, on the condition that the lender execute the non-disturbance provision required hereunder.

18. HAZARDOUS MATERIALS.

18.1 HAZARDOUS MATERIALS. The term "Hazardous Materials," as used in this Lease, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCB's), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

18.2 LESSEE'S RESTRICTIONS. Lessee shall not cause or permit to occur:

- a. Any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under, or about the Premises, or arising from Lessee to use or occupancy of the Premises, including, but not limited to, soil and ground water conditions; or
- b. The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Material on, under, or about the Premises, or the transportation to or from the Premises of any Hazardous Material except in strict compliance, at Lessee's sole cost and expense, with all Federal, State and local laws, rules and regulations.

18.3 ENVIRONMENTAL CLEAN-UP.

- a. Lessee shall, at Lessee's own expense, comply with all laws regulating the use, generation, storage, transportation, or disposal of Hazardous Materials ("Laws").
- b. Lessee shall, at Lessee's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities (the "Authorities") under the Law.
- c. Should any Authority or any third party demand that a clean-up plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge, or other release of Hazardous Materials that occurs during the term of this Lease, at or from the Premises, or which arises at any time from Lessee's use or occupancy of the Premises, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and all related bonds and other financial assurances: and Lessee shall carry out all such clean-up plans.
- d. Lessee shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Materials that is reasonably requested by Lessor. If Lessee fails to fulfill any duty imposed under this Paragraph (18.3) within a reasonable time, Lessor may do so; and in such case, Lessee shall cooperate with Lessor in order to prepare all documents Lessor deems necessary or appropriate to determine the

applicability of the Laws to the Premises and Lessee's use thereof, and for compliance therewith, and Lessee shall execute all reasonable documents promptly upon Lessor's request. No such action by Lessor and no attempt made by Lessor to mitigate damages under any Law shall constitute a waiver of any of Lessee's obligations under this Paragraph (18.3).

e. Lessee's obligations and liabilities under this Paragraph (18.3) shall survive the expiration of this Lease.

18.4 LESSEE'S INDEMNITY.

a. Lessee shall indemnify, defend, and hold harmless Lessor, the manager of the property, and their respective officer, directors, beneficiaries, shareholders, partners, agents, and employees from all fines, suits, procedures, claims, and actions of every kind, and all costs associated therewith (including reasonable attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge, or other release of Hazardous Materials that occurs during the term of this Lease, at or from the Premises, or which arises at any time from Lessee's use of occupancy of the Premises, or from Lessee's failure to provide all information, make all submissions, and take all steps required by all Authorities under the Laws and all other environmental laws.

b. Lessee's obligations and liabilities under this Paragraph (18.4) shall survive the expiration of this Lease.

19. GENERAL CONDITIONS; MISCELLANEOUS PROVISIONS.

19.1 NOTICE BETWEEN THE PARTIES.

A. DEFINITION OF NOTICE; APPLICATION OF PROVISION. As used in this lease, notice includes but is not limited to the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice.

Unless the provisions of this lease on rent direct otherwise, rent shall be sent in the manner provided for giving notice.

B. WRITING. All notices must be in writing, provided that no writing other than the check or other instrument representing the rent payment itself, except as otherwise specified in this lease, need accompany the payment of rent.

C. DELIVERY. Notice is considered given either (1) when delivered in person to the recipient named as below, or (2) three days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested,

postage and postal charges prepaid, (3) one day after mailed by national overnight delivery service, or (4) the time and date on the transmittal report if transferred by facsimile, addressed by name and address to the party or person intended as follows:

Notice to Lessor: Brenda Raceway Corporation
c/o H. Skip Berg
115 Barbaree
Tiburon, CA 94920

with a copy to: Clement, Fitzpatrick & Kenworthy
P.O. Box 1494
3333 Mendocino Ave, Suite 200
Santa Rosa, CA 95402
Attention: K. Randall Kenworthy, Esq.

Notice to Lessee: Speedway Motorsports, Inc.
P.O. Box 18747
Charlotte, NC 28218

with a copy to: Parker, Poe, Adams & Bernstein L.L.P.
2500 Charlotte Plaza
Charlotte, North Carolina 28244
Attention: Fred T. Lowrance, Esq.

D. CHANGE OF RECIPIENT OR ADDRESS. Either party may,

by notice given at any time or from time to time, require subsequent notices to be given to another individual person whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

E. RECIPIENT NAMED. If more than one recipient is named, delivery of notice to any one such recipient is sufficient. If none of the recipients named in the latest designation of recipient is available for delivery in person, and if the notice addressed by mail to each recipient named in the latest designation of recipient is returned to the sender undelivered, notice shall be sufficient if sent by mail as above to the party as named in this lease, unless the name or identity of the party has changed as permitted in this lease and proper notice of the change has been given, in which event the notice shall be sufficient if sent by mail as above to the party named in the latest notice designating the party, and the notice is considered given when the first attempt to give notice was properly made.

19.2 PERFORMANCE OF LESSEE'S COVENANTS BY OTHERS. Lessee may at Lessee's election delegate performance of any or all covenants to any one or more subtenants, or subtenants of subtenants, and the performance so delegated shall be deemed Lessee's

performance. This provision shall not be considered to permit or to broaden the right of assignment or subletting beyond the provisions of this lease relating to assignment and subletting, and shall not relieve Lessee of its obligation to perform its duties under this lease.

19.3 ESTOPPEL CERTIFICATE. Each party (as "responding party") shall at any time Upon not less than fifteen (15) days' prior written notice from the other party ("requesting party") execute, acknowledge and deliver to the requesting party a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to the responding party's knowledge, any uncured defaults on the part of the requesting party, or specifying such defaults if any are claimed, and (iii) in the case of Lessee, certify as to Such other matters as may be reasonably requested by Lessor or by a prospective purchaser or encumbrancer of all or any part of the Premises. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises or of the business of Lessee. At the requesting party's option, the failure to deliver such statement within such time shall be conclusive upon such party that (i) this Lease is in full force and effect, without modification except as may be represented by the requesting party, (ii) there are no uncured defaults in the requesting party' s performance, (iii) if Lessor is the requesting party, not more than one month's rent has been paid in advance, and (iv) if Lessor is the requesting party, there are no remaining obligations of the requesting party under this Lease yet to be performed. If a responding party fails to respond within the fifteen (15) day period, the notice shall not be deemed conclusive unless the second notice has been sent notifying the other party that the failure to respond within another five (5) day period shall have the effect described in this paragraph.

19.4 TIME. Time is of the essence of this lease.

19.5 DEFINITIONS.

a. "Person" means person or persons or other entity or entities or any combination of persons and entities.

b. "Individual person" means a human being.

c. "Lessor" means the person who is the owner at the time in question of the Premises, whether singular or plural in number, and whether named in this lease as Lessor having become the successor in interest of the named Lessor, or the successor of a successor, whether by assignment, foreclosure, or other transfer, and whether intentional or inadvertent or by operation of law.

d. "Lessee" means the person named as Lessee in this lease, whether singular or plural in number, or the person who at the time in question is the successor in interest of Lessee, or the successor of a successor, whether by assignment, foreclosure, or other transfer,

and whether intentional or inadvertent or by operation of law. It does not, however, include any person claiming under any assignment or other transfer prohibited by this lease, and this definition does not alter the provisions of this lease relating to assignment or subletting.

e. "Fee mortgage" means a mortgage placed as an encumbrance against Lessor's fee title by Lessor, provided Lessor is primarily obligated to perform the provisions of the fee mortgage.

f. "Chattel" means personal property that has not become affixed to the Premises or to the improvements on the Premises. Disputes, to which Lessor, Lessee, or any mortgagee are parties in any combination, on the question whether any item or items are chattels, shall be submitted to arbitration.

g. "Trade fixtures" are chattels.

h. "Premises" are defined in the paragraph on Premises.

i. "Foreclosure" includes judicial foreclosure, sale under a power of sale given in a mortgage, and all other remedies provided by law or equity or set out in a mortgage and enforceable in the state in which the Premises are located at the time of the foreclosure for divesting the obligee of title in the event of the obligors default.

19.6 CAPTIONS. The captions of the various paragraphs of this lease are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this lease or of any part or parts of this lease.

19.7 EXHIBITS. All exhibits to which reference is made in this lease are incorporated in this lease by the respective references to the, whether or not they are actually attached, provided they have been signed or initialed by the parties.

19.8 ENTIRE AGREEMENT. This lease contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this lease has been or is relied on by either party. Each party has relied on his own examination of this lease, the counsel of his own advisors, and the warranties, representations, and covenants in the lease itself.

19.9 SEVERABILITY. The invalidity or illegality of any provision shall not affect the remainder of the lease.

19.10 RECORDATION OF ABSTRACT. This lease shall not be recorded. An abstract of this lease and the purchase option may, at Lessee's request, be recorded. If such an abstract is recorded, upon termination of this lease for any reason, Lessee shall promptly on Lessor's request, execute, acknowledge and deliver to Lessor a quitclaim of Lessee's interest in the Premises in recordable form.

19.11 SIGNS. Lessee shall have the exclusive right at Lessee's sole expense to erect and maintain signs on the Premises for itself and for its subtenants. All signs shall comply with all applicable local and state laws, ordinances and regulations.

20. EXPIRATION; TERMINATION.

20.1 LESSEE'S DUTY TO SURRENDER. At the expiration or earlier termination of the term, Lessee shall surrender to Lessor the possession of the Premises. Surrender or removal of improvements, fixtures, and equipment shall be as directed in provisions of this lease on ownership of improvements at termination. Lessee shall leave the surrendered Premises and any other property in good and broom-clean condition except as provided to the contrary in provisions of this lease on maintenance and repair of improvements. All property that Lessee is required to surrender shall become Lessor's property at termination of the lease. All property that Lessee is not required to surrender but that Lessee does abandon shall, at Lessor's election, become Lessor's property at termination.

If Lessee fail to surrender the Promises at the expiration or sooner termination of this lease, Lessee shall defend and indemnify Lessor from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from Lessee's failure to surrender.

20.2 HOLDING OVER. This lease shall terminate without further notice at expiration of the term. Any holding over by Lessee after expiration shall not constitute a renewal or extension or give Lessee any rights in or to the Premises except as otherwise expressly provided in this lease and shall be construed to be a tenancy from month-to-month on the same terms and conditions as herein specified, so far as applicable, and, commencing on the expiration date, at 125% of the monthly rental paid during the immediately preceding period.

21. QUIET ENJOYMENT. Lessor covenant and warrants that as long as Lessee is not in default after the expiration of all applicable cure periods of the terms of this lease, Lessee shall have quiet and peaceful possession of the Premises and shall enjoy all the rights herein granted without interference, subject to the limitations, reservations and conditions set forth herein.

22. BROKER'S FEE. Lessee and Lessor hereby represent that they have not engaged any real estate broker and no commissions or finder's fees are due. Lessee and Lessor each represents and warrants to the other that neither has had any dealings with any person, firm, broker or finder in connection with the negotiation of this Lease and/or the consummation of the transaction contemplated hereby, and no broker or person, firm or entity is entitled to any commission or finder's fee in connection with said transaction and Lessee and Lessor do each hereby indemnify and hold the other harmless from and against any costs, expenses, attorneys' fees or liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party.

23. OPTION TO PURCHASE. Provided Lessee is not in default in the payment of rent after the expiration of all applicable cure periods under this Lease, Lessee shall have the exclusive option (the "Purchase Option") to purchase the Premises upon the following terms and conditions:

23.1 OPTION CONSIDERATION. The consideration for this Purchase option shall be the performance of Lessee's obligations under the Lease and the additional payment by Lessee to Lessor upon execution of this lease of the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) in cash ("Purchase Option Consideration"). The Purchase Option Consideration shall be fully earned and non-refundable upon payment but shall be applied to the purchase price in the event the Purchase Option is exercised. No part of the Purchase Option Consideration shall be applied to rent or any other sums otherwise due under this lease.

23.2 COMMENCEMENT OF OPTION TERM. Unless Lessor shall give a Notice of Acceleration as hereinafter defined, the term of this Purchase Option shall commence upon November 1, 1999 and shall, unless sooner exercised, terminate upon May 1, 2000. Notwithstanding anything herein to the contrary, Lessor may, in Lessor's sole and absolute discretion, elect to accelerate the term of the Purchase Option by giving written notice to Lessee ("Notice of Acceleration") not sooner than April 1, 1997 and not later than December 30, 1999, specifying that Lessee must exercise this Purchase Option, if at all, not later than 45 days from the date of Notice of Acceleration. If Lessor elects to give a Notice of Acceleration, then the term of the Purchase Option shall commence on the date the Notice of Acceleration is given and shall, unless sooner exercised, terminate 45 days thereafter.

23.3 EXERCISE OF OPTION. This Purchase Option shall be exercised by written notice of exercise of the Purchase Option which must be received by Lessor not sooner than the commencement of the term of the Purchase Option and not later than the termination of the term of the Purchase Option as set forth in subparagraph 23.2 above. If Lessee fails to exercise the Purchase Option in writing within the term of the Purchase Option as described in subparagraph 23.2 above, the Purchase Option shall expire and shall be of no further force or effect.

23.4 PURCHASE PRICE. In the event the Purchase Option is exercised, the purchase price for the Premises shall be Thirty-Eight Million, One Hundred Thousand Dollars (\$38,100,000.00) and shall be payable in cash or immediately available funds upon close of escrow. Lessee shall not be entitled to any credit toward or reduction of the purchase price on account of any rent or other amounts paid pursuant to this Lease or any capital expenditures or any other expenses incurred by Lessee in connection with the development of the property, or any taxes, assessments, development fees or other costs incurred by Lessee at any time during the Lease other than (i) Purchase Option Consideration and (ii) any outstanding debts or liens affecting the Premises which Lessor does not satisfy prior to Closing.

23.5 ESCROW. Upon exercise of the Purchase option, the sale shall be consummated through an escrow established with First American Title Insurance Company, Santa Rosa, California. The parties shall deposit in Escrow at least two business days in advance of the close thereof all funds and all documents required to complete the transaction contemplated by this Agreement.

23.6 CLOSING. In the event the Purchase Option is exercised, escrow shall close not later than: (i) 210 days following the date upon which Lessee gives written notice of the exercise of the Purchase Option; or (ii) 15 days following written notice to close given following Lessee's exercise of the Purchase Option from Lessor to Lessee, whichever is sooner.

23.7 OTHER TERMS OF SALE. In the event the Purchase Option is exercised, the sale of the Premises and the closing will be upon the following terms and conditions:

A. CONDITION OF TITLE AND TITLE POLICY. Lessor shall, at close of escrow, convey to Lessee a fee simple interest in the Premises and all improvements located thereon by a grant deed free and clear of all title defects, liens, encumbrances, deeds of trust, and mortgages except: (1) then-current taxes, a lien but not yet due or payable, (2) easements, rights-of-way, conditions and restrictions of record not materially affecting the value or intended use of the property, (3) such other non-monetary exceptions appearing in Exhibit B, the permitted exceptions, and any amounts received by Lessor from insurance companies due to damage to the Premises or for a governmental authority from a condemnation award. Title shall be evidenced by the willingness of escrow holder to issue its CLTA standard policy in the amount of the purchase price subject only to the permitted exceptions.

B. CLOSING COSTS. Documentary transfer taxes shall be charged to Lessor; The title insurance premium shall be paid by Lessee; all other escrow fees and charges will be paid in the manner customary in Sonoma County, California at the time of close of escrow.

C. COOPERATION WITH SS.1031 EXCHANGE. Lessee will cooperate with Lessor at Lessor's sole cost in accomplishing a tax deferred exchange of the Premises under ss.1031 of the Internal Revenue Code or any amended, replacement or successor section, and so long as it does not result in any material delay or increase in cost to Lessee.

D. PREMISES AS-IS; LESSOR'S WARRANTIES. Except as otherwise set forth herein (i) Lessee shall purchase the Premises AS-IS and with all faults and defects, (ii) Lessee shall assume all risk that adverse physical, legal and/or environmental conditions may not have been revealed by its own investigation, (iii) Lessor makes no representation or warranty of any kind, express or implied, and no responsibility has been or is assumed by Lessor or by any partner, person, firm or agent acting or purporting to act on behalf of Lessor, as to the Premises, including zoning, future zoning, availability of sewer, water or other utilities, topography, soil, subsoil, drainage, road access, environmental laws and regulations, suitability for any particular use or purpose, condition, repair, fitness, use, or the value, or development potential thereof, (iv)

Lessor disclaims all representations and warranties, both express and implied, regarding compliance of the Premises with any federal, state or local law, rule, or regulation relating to subdivision, improvements, pollution, zoning, environmental protection, hazardous materials or occupational health and safety, or otherwise, and (v) Any statements not expressly contained in this agreement shall not bind Lessor, and Lessee expressly waives any right of rescission and all claims for damages by reason of any statement, representation, warranty, promise or agreement made by any person whomsoever, other than as contained in this agreement. Without limiting the generality of the foregoing, It shall be Lessee's sole responsibility to investigate and determine: (x) whether or not the Premises is or may be situated in a Special Study Zone as designated under the Alquist-Priolo Geologic Hazard Section 2621-2625, inclusive, of the California Public Resources Code; and, as such, whether or not the construction or development on this Premises of any structure for human occupancy may be subject to the findings of a geological report prepared by a geologist registered in the State of California, unless such report is waived by the City or County under the terms of that act; and (y) whether or not the Premises is or may be situated in a "Special Flood Hazard Area" as set forth on a Federal Emergency Management Agency (FEMA) "Flood Insurance Rate Map" (FIRM) or "Flood Hazard Boundary Map" (FHBM), and as such, whether or not, as a condition of obtaining financing on most structures located in a Special Floods Hazard Area", a Lender may require flood insurance where the Premises or its attachments may become security for a loan.

E. PRORATIONS. Rents, real property taxes, and interest on assessments shall be prorated between the parties as of the closing date on the basis of a thirty (30) day month.

F. COMMISSION. Each of the parties represents to the other that it has not had dealings with any real estate broker or salesman with respect to this Purchase option and each party does hereby agree to defend, indemnify and hold harmless the other party from any costs and liabilities, including reasonable attorney's fees resulting from any claims to the contrary regarding the payment of a commission or fee in connection with the sale of the Premises.

G. HART-SCOTT-RODINO. To the extent that the requirements of the Hart-Scott-Rodino Antitrust Improvements Act ("the HSR Act") apply to the sale of the Premises pursuant to the Purchase Option, the parties shall promptly file all notifications required by ss.18a of Chapter 1, Title 15, United States Code at the earliest possible date, and shall thereafter use all best efforts to comply with the requirements of that Act to allow the closing of the sale to take place within the time frames set forth herein and in accordance with the following:

(i) It shall be a condition to the obligation of the parties to close with respect to such sale that all applicable waiting periods of the HSR Act shall (unless waived by the Department of Justice or the Federal Trade Commission) have expired without any overt indication by the Department of Justice or the Federal Trade

Commission that either of them intends to challenge such sale and accordingly, any schedule or required closing date for such purchase hereunder shall be postponed if and to the extent necessary to allow the expiration of such waiting periods.

(ii) Lessee and Lessor shall use their best good faith and diligent efforts to expedite satisfaction of this condition so that the closing shall not be extended beyond the time which is 90 days from the date of the initial notification filed pursuant to ss.18a of Chapter 1, Title 15, United States Code ("the HSR Notification").

(iii) In the event the closing is delayed (for reasons beyond the reasonable control of Lessor) for more than 90 days from the date of the HSR Notification, then Lessee shall immediately advance up to \$750,000 to Lessor for the use by Lessor as earnest money deposits or extension consideration on the purchase of real estate to be acquired by Lessor. In the event that the closing is delayed (for reasons beyond the reasonable control of Lessor) for more than 180 days from the date of the HSR Notification and such delay results in the loss or forfeiture of any such earnest money deposits or extension consideration, Lessor shall not be required to repay such advance to the extent of such losses or forfeitures and the purchase price shall be increased by the amount of such nonrefundable advance.

(iv) With the exception of the production of information or records belonging to Lessor, Lessee shall solely bear all costs and expenses of obtaining any governmental approvals or consents under the HSR Act, including without limitation, any litigation or other response costs.

(v) In the event the close of escrow is delayed (for reasons beyond the reasonable control of Lessor) by a period of more than 180 days from the date of the HSR Notification by reason of delays occasioned by the HSR Act, including any injunction or extension of the waiting periods under HSR Act, then the purchase price shall be increased at the rate of \$100,000.00 for each 30 days of such delay until the close of escrow.

(vi) In addition to the remedy described in paragraph 23.7(g)(v) above, in the event that the close of escrow is delayed (for reasons beyond the reasonable control of Lessor) by a period of more than 145 days from the date of the HSR Notification by reason of delay caused by the HSR Act, the Lessee shall be entitled to assign the Purchase Option to another person or entity. If that other person or entity does not close the purchase by no later than the end of the 180 day period described in paragraph 23.7(g)(v), then the Purchase Option shall be reassigned to Lessee and the requirement of paragraph 23.7(g)(v) shall take effect.

(vii) In the event the closing of the escrow is permanently enjoined, prohibited or prevented by the Federal Trade Commission or any other agency of the United States Government and such injunction has been upheld by all applicable courts of appeal, or all rights of appeal have expired, n, then the Purchase Option and all of Lessee's rights thereunder shall terminate.

23.8 ASSIGNMENT. Except as provided in paragraph 23.7(g)(vi), Lessee may not assign any rights under this Purchase Option without the prior written consent of Lessor not to be unreasonably withheld, conditioned or delayed; provided, however, Lessee may assign this purchase option to a wholly owned subsidiary of Lessee. In the event of an assignment, Lessee shall remain fully liable for the obligation under the Purchase Option. Any attempted assignment in violation of this provision shall be void.

23.9 TIME OF THE ESSENCE. Time is of the essence in the performance of each of the provisions pertaining to the Purchase Option.

23.10 OTHER DOCUMENTATION. Lessor and Lessee shall execute or have executed all other commercially reasonable documents necessary for the closing, including but not limited to opinions of counsel, in form reasonably satisfactory to the other party, that each party is duly organized, is authorized to enter into this transaction, and that the documents are binding on the parties.

24. AUTHORITY. Each individual executing this Lease on behalf of a corporate entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said entity.

25. SUCCESSORS AND ASSIGNS. The provision of this Lease shall bind and inure to the benefit of Lessor and Lessee, and their respective successors and assigns.

26. COUNTERPARTS. This Lease may be executed in counterparts, which, taken together, shall be deemed one (1) original.

27. NEGATIVE COVENANT. Lessor shall (i) provide Lessee with all notice or other information concerning the Premises, (ii) not take any action or fail to take action concerning or affecting the Premises without Lessee's consent. Lessors warrants that there shall be no material adverse change in the title to the Premises from November 4, 1996.

28. REPRESENTATIONS. Lessor makes the following warranties and representations. These warranties are to the best of the actual knowledge of Lessor. (For purposes of this paragraph, "actual knowledge of Lessor" means the actual knowledge of the officers, directors and management employees of Lessor.)

- a. Lessor has (or at close of escrow of the Purchase Option will have) all rights to convey good title to the Premises to Lessee. Upon completion of the transfer upon exercise of the Purchase Option, Lessee shall have good title to the Premises, free and clear of any liens, claims, or encumbrances, other than those shown on Exhibit B.
- b. The lease or transfer of the Premises to Lessee does not violate any applicable laws or regulation or any obligations or agreements of Lessor, or the Lessor's sole stockholder, or any related parties, including, but not limited to, the terms or obligations under any loan agreements or other material agreements. All consents of governmental authorities and other third parties to the transfer or lease of the Premises by Lessor will have been obtained by the closing.
- c. Except as listed on Exhibit D attached hereto, there are no pending or threatened claims or liabilities against the Lessor or the Premises, including, but not limited to, any pending or threatened claims with respect to environmental matters, and Lessor has no actual knowledge or information of any facts or circumstances which could result in a claim or liability against Lessor or the Premises.
- d. During the term of this lease, Lessor shall not take any action or fail to take any action, and will not knowingly suffer to occur any event within the reasonable control of Lessor that will materially change the value of the Premises.
- e. Lessor has full power and authority to enter into and to perform this Lease.
- f. These representations and warranties shall be true as of the date of this Lease and as of the date of the closing of the Purchase Option. These representations and warranties shall survive the closing of the sale upon exercise of the Purchase Option.

Dated: November 18, 1996

LESSOR:

Brenda Raceway Corporation,
a California corporation

By: /s/ Skip Berg
Its: Chairman

LESSEE:

SPEEDWAY MOTORSPORTS, INC.

By: /s/ William R. Brooks
Its: Vice President

**DEED OF TRUST, SECURITY AGREEMENT, AND FIXTURE FILING
WITH ASSIGNMENT OF RENTS AND AGREEMENTS**

This Deed of Trust, Security Agreement, and Fixture Filing with Assignment of Rents and Agreements (this "Deed of Trust") is made as of November 18, 1996, by Brenda Raceway Corporation, a California corporation ("Trustor"), to First American Title Insurance Company, for the benefit of Sonoma Funding Corporation, a California corporation ("Beneficiary").

Witnesseth:

Trustor does irrevocably grant, transfer, and assign to Trustee, in trust, with power of sale, all Trustor's right, title, and interest now owned or later acquired in the real property ("Land") located in Sonoma County, California, and more particularly described in attached Exhibit A, incorporated by reference (Trustor agrees that any greater title to the Land later acquired during the term of this Deed of Trust will be subject to this Deed of Trust), together with the rents, issues, and profits, subject however, to the right, power, and authority granted and conferred on Trustor in this Deed of Trust to collect and apply the rents, issues, and profits; and Trustor also irrevocably grants, transfers, and assigns to Trustee, in trust, with power of sale, all of Trustor's right, title, and interest now owned or later acquired to the following property (including the rights or interests pertaining to the property) located at the Property:

(1) all buildings ("Buildings") and improvements now or later on the Land, and all appurtenances, easements, water and water rights, and pumps and pumping plants, and all shares of stock evidencing these; all machinery, equipment, appliances, and fixtures for generating or distributing air, water, heat, electricity, light, fuel, or refrigeration or for ventilating or sanitary purposes or for the exclusion of vermin or insects or for the removal of dust, refuse, or garbage; all wall safes, built-in furniture, and installations, shelving, lockers, partitions, doorstops, vaults, elevators, dumbwaiters, awnings, window shades, venetian blinds, light fixtures, fire hoses and brackets and boxes for them, fire sprinklers, alarm systems, draperies, drapery rods and brackets, screens, linoleum, carpets, furniture, furnishings, fixtures, plumbing, laundry tubs and trays, iceboxes, refrigerators, heating units, stoves, water heaters, incinerators, and communication systems and installations for which any Building is specially designed; all of these items, whether now or later installed, being declared to be for all purposes of this Deed of Trust a part of the Land, the specific enumerations in this Deed of Trust not excluding the general;

(2) the rents, issues, profits, and proceeds; and

(3) the Property to the extent not included in clauses (1) and (2) above.

For the purpose of securing, in the order of priority that Beneficiary determines

(1) payment of the indebtedness evidenced by a note of Trustor of the same date as this Deed of Trust in the principal amount of Thirteen Million Four Hundred Fifty-Two Thousand Nine Hundred Eighty-Seven Dollars and Eighty Cents (\$13,452,987.80) ("Note"), payable to Beneficiary or to order, and all extensions, modifications, or renewals of that Note;

(2) payment of the interest on that indebtedness according to the terms of the Note;

(3) payment of all other sums (with interest as provided in this Deed of Trust) becoming due and payable to Beneficiary or Trustee pursuant to the terms of this Deed of Trust;

(4) performance of every obligation contained in this Deed of Trust, the Note, any instrument now or later evidencing or securing any indebtedness secured by this Deed of Trust, and any agreements, supplemental agreements, or other instruments of security executed by Trustor as of the same date of this Deed of Trust or at any time subsequent to the date of this Deed of Trust for the purpose of further securing any indebtedness secured by this Deed of Trust, or any part of it, or for the purpose of supplementing or amending this Deed of Trust or any instrument secured by this Deed of Trust; and

(5) payment of all other obligations owed by Trustor to Beneficiary that by their terms recite that they are secured by this Deed of Trust.

Regardless of anything stated above or any other term contained in this Deed of Trust or in the Loan Documents (as defined in this Deed of Trust), Trustor's obligations under this Deed of Trust and the Loan Documents shall be deemed fulfilled to the extent that such obligations (e.g., purchase of insurance) are performed of Speedway Motorsports, Inc. or its assignee ("Speedway") pursuant to the terms of the lease between Trustor and Speedway dated November 4, 1996 ("Master Ground Lease"). Furthermore, Trustor shall not be deemed to be in default under any provision of this Deed of Trust which is caused by lessee's default under the Master Ground Lease so long as Trustor is diligently enforcing the Master Ground Lease and seeking all available remedies thereunder for the mutual benefit of Trustor and Beneficiary.

ARTICLE 1. DEFINITIONS

SECTION 1.1. CERTAIN DEFINED TERMS.

As used in this Deed of Trust the following terms will have the following meanings:

BUILDINGS: The Buildings as defined above in this Deed of Trust.

COLLATERAL: The Collateral as defined in Section 9.1 of this Deed of Trust.

FIXTURES: All fixtures located on the Improvements (as defined in this Deed of Trust) or now or later installed in, or used in connection with, any of the Improvements, including, but not limited to, all partitions, screens, awnings, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning and sprinkler systems, fire-extinguishing apparatus and equipment, water tanks, heating, ventilating, air-conditioning and air-cooling equipment, built-in refrigerators, and gas and electric machinery, appurtenances, and equipment, whether or not permanently affixed to the Land or the Improvements.

HAZARDOUS SUBSTANCE:

(a) any oil, flammable substance, explosive, radioactive material, hazardous waste or substance, toxic waste or substance, or any other waste, material, or pollutant that: (i) poses a hazard to the Property or to persons on the Property, or (ii) causes the Property to be in violation of any Hazardous Substance Law;

(b) asbestos in any form;

(c) urea formaldehyde foam insulation;

(d) transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls;

(e) radon gas;

(f) any chemical, material, or substance defined as or included in the definition of hazardous substance, hazardous substances, hazardous wastes, hazardous materials, extremely hazardous waste, restricted hazardous waste, or toxic substances or words of similar import under any applicable local, state, or federal law or under the regulations adopted or publications promulgated pursuant to those laws, including, but not limited to, any Hazardous Substance Law, Code of Civil Procedure ss. 564, as amended from time to time, Code of Civil Procedure ss. 726.5, as amended from time to time, Code of Civil Procedure ss. 736, as amended from time to time, and Civil Code ss. 2929.5, as amended from time to time;

(g) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority or which may pose a hazard to the health and safety of the occupants of the Property or the owners or occupants of property adjacent to or surrounding the Property, or any other person coming on the Property or any adjacent property; and

(h) any other chemical, material, or substance that may pose a hazard to the environment.

HAZARDOUS SUBSTANCE CLAIM: Any enforcement, cleanup, removal, remedial, or other governmental, regulatory, or private actions, agreements, or orders threatened, instituted, or completed pursuant to any Hazardous Substance Law, together with all claims made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost-recovery compensation, loss, or injury resulting from the presence, release, or discharge of any Hazardous Substance.

HAZARDOUS SUBSTANCE LAW: Any federal, state, or local law, ordinance, regulation, or policy relating to the environment, health, and safety, any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge, or storage of the substance), industrial hygiene, soil, groundwater, and indoor and ambient air conditions or the environmental conditions on the Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 USCS SS.SS. 9601 ET SEQ.], as amended from time to time; the Hazardous Substances Transportation Act [49 USCS SS.SS. 1801 ET SEQ.], as amended from time to time; the Resource Conservation and Recovery Act [42 USCS SS.SS. 6901 ET SEQ.], as amended from time to time; the Federal Water Pollution Control Act [33 USCS SS.SS. 1251 ET SEQ.], as amended from time to time; the Hazardous Substance Account Act [HEALTH AND SAFETY CODE SS.SS. 25300 ET SEQ.], as amended from time to time; the Hazardous Waste Control Law [HEALTH AND SAFETY CODE SS.SS. 25100 ET SEQ.], as amended from time to time; the Medical Waste Management Act [HEALTH AND SAFETY CODE SS.SS. 25015 ET SEQ.], as amended from time to time; and the Porter-Cologne Water Quality Control Act [WATER CODE SS.SS. 13000 ET SEQ.], as amended from time to time.

IMPOSITIONS: All real estate and personal property taxes and other taxes and assessments, water and sewer rates and charges, and all other governmental charges and any interest or costs or penalties with respect to those charges, assessments, or taxes, ground rent and charges for any easement or agreement maintained for the benefit of the Property, general and special, ordinary and extraordinary, foreseen or unforeseen, of any kind that at any time prior to or after the execution of the Loan Documents may be assessed, levied, imposed, or become a lien on the Property or the rent or income received from the Property, or any use or occupancy of the Property; and any charges, expenses, payments, or assessments of any nature, if any, that are or may become a lien on the Property or the rent or income received from the Property.

IMPROVEMENTS: All Buildings, improvements, and appurtenances on the Land, and all improvements, additions, and replacements of those improvements and other buildings and improvements, at any time later constructed or placed on the Land.

INDEBTEDNESS: The principal of and interest on, and all other amounts, payments, and premiums due under, the Note and any extensions or renewals (including, without limitation, extensions or renewals at a different rate of interest, regardless of whether evidenced by a new or additional promissory note or notes), and all other indebtedness of Trustor to Beneficiary under or secured by the Security Documents (defined in this Deed of Trust), together with all other sums owed by Trustor to Beneficiary.

LAND: The Land as defined in this Deed of Trust.

LEASES: All leasehold interests, including subleases and tenancies following attornment, affecting or covering any portion of the Property.

LOAN: The loan secured by this Deed of Trust and evidenced by the Note.

LOAN DOCUMENTS: The Note, the Security Documents, and all other documents (including guaranties) evidencing, securing, or relating to the Loan.

LOAN PARTIES: Trustor and any guarantors of the loan or any obligations under the loan, together with their respective affiliates and their respective employees, representatives, and agents.

NOTE: The Note as defined in this Deed of Trust.

OBLIGATIONS: All of the covenants, promises, and other obligations (other than the Indebtedness): (i) made or owing by Trustor to or due to Beneficiary under or as set forth in the Loan Documents, and (ii) made or owing by Trustor to every other Person, a breach of which would or may affect Trustor's ownership, development, or operation of the Property, except any covenants, promises, and other obligations of Trustor to Beneficiary under the Certification Agreement.

PERSON: Any natural person, corporation, firm, association, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity.

PERSONALTY: Trustor's interest in all accounts, contract rights, and general intangibles (specifically including any insurance proceeds and condemnation awards) arising out of the ownership, development, or operation of the Property, and all furniture, furnishings, equipment, machinery, construction materials and supplies, leasehold interests in personal property, and all other personal property (other than Fixtures) now or later on the Property, together with all present and future attachments, accessions, replacements, substitutions, and additions, and the cash and noncash proceeds.

PROPERTY: The Land, the Improvements, the Fixtures, and the Personalty, together with:

(a) all rights, privileges, tenements, hereditaments, rights-of-way, easements, and appurtenances of the Land or the Improvements now or later belonging to the Property, and all right, title, and interest of Trustor in any streets, ways, alleys, strips, or gores of land adjoining the Land; and

(b) all of Trustor's right, title, and interest in the Land, the Improvements, the Fixtures, and the Personalty, including any award for any change of grade of streets affecting the Land, the Improvements, the Fixtures, or the Personalty.

RECEIVER: Any trustee, receiver, custodian, fiscal agent, liquidator, or similar officer.

RELEASE: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of Hazardous Substances that goes into the soil, surface water, or groundwater of the Property, whether or not caused by, contributed to, permitted by, acquiesced to, or known to Trustor.

SECURITY DOCUMENTS: This Deed of Trust, the Assignment of Leases and all other documents now or later securing any part of the payment of the Indebtedness or the observance or performance of the Obligations.

TITLE POLICY: The title insurance policy issued by First American Title Insurance Company to Beneficiary.

**ARTICLE 2.
WARRANTY OF TITLE**

Trustor warrants that:

- (a) Trustor is the lawful owner of the Property,
- (b) Trustor will maintain and preserve the lien of this Deed of Trust until the Indebtedness has been paid in full,
- (c) Trustor has good, right, and lawful authority to grant the Property as provided in this Deed of Trust, and
- (d) Trustor will forever warrant and defend the grant made in this Deed of Trust against all claims and demands, except as are specifically set forth in this Deed of Trust.

**ARTICLE 3.
REPRESENTATIONS AND WARRANTIES**

Trustor makes the following representations to Beneficiary to the best of Trustor's actual knowledge (for purposes of this Article, "Trustor's actual knowledge" means the actual knowledge of the officers, directors and key management employees of Seller) that as of the date of this Deed of Trust:

SECTION 3.1. ORGANIZATION OF THE LOAN PARTIES.

- (a) Trustor is a Corporation organized, validly existing, and in good standing under the laws of the State of California and is qualified to do business in California.
- (b) Trustor has the requisite power and authority to own and manage its properties, to carry on its business as now being conducted, and to own, develop, and operate the Property.
- (c) Trustor is qualified to do business in every jurisdiction in which the nature of its business or its properties makes qualification necessary.
- (d) Trustor is in compliance with all laws, regulations, ordinances, and orders of public authorities applicable to it.

SECTION 3.2. VALIDITY OF LOAN DOCUMENTS.

- (a) The execution, delivery, and performance by the Loan Parties of the Loan Documents and the borrowings evidenced by the Note:
 - (i) are within the power of the Loan Parties,

(ii) have been duly authorized by all requisite corporate or partnership actions, as appropriate,

(iii) have received all necessary governmental approval, and

(iv) will not violate any provision of law, any order of any court or agency of government, the charter documents of any Loan Party, or any indenture, agreement, or any other instrument to which any Loan Party is a party or by which any Loan Party or any of its property is bound, nor will they conflict with, result in a breach of, or constitute (with due notice and lapse of time) a default under any indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge, or encumbrance of any nature on any of the property or assets of any Loan Party, except as contemplated by the provisions of the Loan Documents.

(b) Each of the Loan Documents, when executed and delivered to Beneficiary, will constitute a valid obligation, enforceable in accordance with its terms.

SECTION 3.3. TAXES.

Trustor has filed all federal, state, county, and municipal income tax returns required to have been filed and has paid all taxes that have become due pursuant to those returns or pursuant to any assessments received by Trustor, and Trustor does not know of any basis for any additional assessment against Trustor in respect of those taxes.

SECTION 3.4. COMPLIANCE WITH LAWS.

Except as otherwise provided in this Deed of Trust, the Property and the proposed and actual use of the Property comply with all laws, ordinances, rules, and regulations of all local, regional, county, state, and federal governmental authorities having jurisdiction, and there is no action or proceeding pending or, to the actual knowledge of Trustor, threatened before any court, quasi-judicial body, or administrative agency at the time of any disbursement by Beneficiary relating to the validity of the Loan or the proposed or actual use of the Property. All rights to appeal any decision rendered will have expired prior to the date of this Deed of Trust.

ARTICLE 4. AFFIRMATIVE COVENANTS

Until the entire Indebtedness has been paid in full, Trustor covenants to and agrees with Beneficiary as follows:

SECTION 4.1. OBLIGATIONS OF TRUSTOR.

Trustor will pay the Indebtedness and Trustor will continue to be liable for the payment of the Indebtedness until it has been paid in full.
Trustor

(a) will timely perform all the covenants, agreements, terms, and conditions to be performed by Trustor: (i) under this Deed of Trust; and (ii) under all other agreements between Trustor and Beneficiary in accordance with the respective terms of the agreement.

(b) will not cancel, surrender, modify, amend, or permit the cancellation, surrender, modification, or amendment of any of the previously mentioned agreements or any of the covenants, agreements, terms, or conditions contained in any of them without the prior written consent, in each case, of Beneficiary; and

(c) will keep Beneficiary indemnified against all actions, proceedings, costs (including, without limitation, Beneficiary's counsel fees and disbursements), claims, and damages incurred or sustained by Beneficiary in respect of the nonpayment of any charges or the nonobservance or nonperformance of any of the covenants, agreements, terms, or conditions in any of the previously mentioned agreements, subject however to the performance by lessee under the Master Ground Lease.

SECTION 4.2. INSURANCE.

(a) Trustor, at its sole cost and expense, will keep the Property insured for the mutual benefit of Trustor and Beneficiary against loss or damage by earthquake and fire, and against loss or damage by other risks embraced by coverage of the type now known as the broad form of extended coverage, including, but not limited to, riot and civil commotion, vandalism, malicious mischief, burglary, theft, and mysterious disappearance, and against any other risks or hazards that Beneficiary may from time to time reasonably designate, in an amount not less than one hundred percent (100%) of the then full replacement cost of the Improvements, without deduction for physical depreciation. The policies of insurance carried in accordance with this section will contain the Replacement Cost Endorsement.

(b) Trustor, at its sole cost and expense, will obtain and maintain public liability insurance covering the Property and the ownership, use, occupancy, and maintenance of the Property.

(c) All policies of insurance required pursuant to this Deed of Trust will be satisfactory in form and substance to Beneficiary and will be approved by Beneficiary as to amounts, form, risk coverage, deductibles, insurer, loss payable, and cancellation provisions.

(d) Effective on the occurrence of any Event of Default, all of Trustor's right, title, and interest in all policies of property insurance and any unearned premiums paid are assigned to Beneficiary, who may assign them to any purchaser of the Property at any foreclosure sale.

Notwithstanding the foregoing, Beneficiary acknowledges and agrees that compliance with the insurance and indemnification provisions of the Master Ground Lease, including those provision permitting lessee to be self insured, shall be deemed to satisfy the requirements of this paragraph 4.2.

SECTION 4.3. MAINTENANCE, WASTE, AND REPAIR.

Trustor will maintain the Improvements now or later existing in good and tenantable repair, and will not structurally alter them without the prior written consent of Beneficiary, or remove or demolish them in whole or in part, nor will Trustor suffer any waste of the Property or make any change in the use of the Property that will in any way increase any ordinary fire or other hazard insurance premiums or permit anything that may in any way impair the security of this Deed of Trust. Trustor will not abandon the Property or lease the Property unprotected, vacant, or deserted.

SECTION 4.4. IMPOSITION; IMPOUNDS.

(a) Impositions Affecting the Property. Trustor will pay when due all Impositions that are or that may become a lien on the Property or are assessed against the Property or its rents, royalties, profits, and income.

(b) Taxes Affecting Trustor. Trustor will file all federal, state, provincial, county, and municipal income tax returns required to be filed and will pay all taxes that become due pursuant to the returns or pursuant to any assessments received by Trustor.

SECTION 4.5. COMPLIANCE WITH LAW.

Trustor will preserve and keep in full force its existence, rights, and powers. Trustor will promptly and faithfully comply with all present and future laws, ordinances, rules, regulations, and requirements of every governmental authority or agency and of every board of fire underwriters (or similar body exercising similar functions) having jurisdiction that may be applicable to it or to the Property or to the use or manner of occupancy, possession, operation, maintenance, alteration, or repair of the Property or any part of it, whether the law, ordinance, rule, order, regulation, or requirement necessitates structural changes or improvements or interferes with the use or enjoyment of the Property.

SECTION 4.6. BOOKS AND RECORDS.

Trustor will maintain complete books of account and other records reflecting the results of Trustor's operations of the Property, in a form satisfactory to Beneficiary, and furnish to Beneficiary any information about the financial condition of the operations of the Property as Beneficiary reasonably requests, including, but not limited to, the following information, which will be furnished without request:

- (a) within thirty (30) days after the end of each month, a statement of revenues and expenses relating to the operations of the Property for the month just ended; and
- (b) promptly upon receipt, copies of any reports by independent public accountants submitted to Trustor concerning the Property or operations.

Beneficiary will have the right, at all reasonable times and on reasonable notice, to audit, at Trustor's sole cost and expense, Trustor's books of account and records pertaining to the Property, all of which will be made available to Beneficiary and Beneficiary's representatives for that purpose, from time to time, on Beneficiary's request.

SECTION 4.7. FURTHER ASSURANCES.

Trustor, at Trustor's expense and at any time on the reasonable request of Beneficiary, will execute, acknowledge, and deliver any additional papers and instruments (including, without limitation, a declaration of no setoff) and any further assurances of title and will do or cause to be done all further acts and things that may be proper or reasonably necessary to carry out the purpose of this Deed of Trust and of the Loan Documents and to subject to the liens any property intended by the terms to be covered and any renewals, additions, substitutions, replacements, or betterments.

SECTION 4.8. STATEMENT BY TRUSTOR.

Trustor, on ten (10) days' written request, will furnish a statement of the amount due or outstanding on the Note and a statement of any offsets, counterclaims, or defenses to the payment.

SECTION 4.9. INDEMNITY.

(a) If any action or proceeding (whether judicial, regulatory, or administrative) is threatened or commenced, except an action to foreclose this Deed of Trust or to collect the Indebtedness: (i) that affects the Property or any portion of it; (ii) in which Beneficiary is or could be made a party; or (iii) in which it becomes necessary to defend or uphold the lien of this Deed of Trust, then all costs, fees, and expenses incurred by Beneficiary with respect to the action or proceeding (including, without limitation, attorney fees and expenses) will, within ten (10) days after the submission of bills for the costs to Trustor, be paid directly to the billing party by Trustor.

(b) In addition, Trustor agrees to pay all costs, including, without limitation, attorney fees and expenses, incurred by Beneficiary in enforcing the terms of this Deed of Trust or the terms of any of the Loan Documents, whether or not suit is filed. Trustor agrees to indemnify and hold Beneficiary harmless from all liability, loss, damage, or expense (including, without limitation, attorney fees) that it may incur under this Deed of Trust, or in connection with the making of any of the loans or financial arrangements secured by this Deed of Trust, the enforcement of any of Beneficiary's rights or remedies, any action taken by Beneficiary under this Deed of Trust, or by reason or in defense of any claims and demands that may be asserted against Beneficiary arising out of the Collateral.

(c) On the failure of Trustor to make timely payment pursuant to the terms of Section 4.9(a) of this Deed of Trust, the payment may be paid by Beneficiary. Sums of money paid by Beneficiary, and sums owed to Beneficiary pursuant to Section 4.9(b) of this Deed of Trust, together with interest at the Rate set forth in the note from the date

Beneficiary makes the payment or incurs the loss, will be secured by this Deed of Trust, prior to any right, title, or interest in or claim on the Property attaching or accruing subsequent to the lien of this Deed of Trust, and will be payable by Trustor to Beneficiary on demand.

(d) The provisions of this Section 4.9 will survive the termination of this Deed of Trust and the repayment of the Indebtedness.

SECTION 4.10. REIMBURSEMENT.

Beneficiary will have the right to declare immediately due any amount paid by it for any tax, stamp tax, assessment, water rate, sewer rate, insurance premium, repair, rent charge, debt, claim, inspection, or lien having priority over this Deed of Trust, or over any other agreement given to secure the Indebtedness.

SECTION 4.11. LITIGATION.

Trustor will promptly give written notice to Beneficiary of any litigation commenced or threatened affecting Trustor or the Property other than unlawful detainer proceedings brought by Trustor.

SECTION 4.12. TAX RECEIPTS.

Subject to the provisions of Section 4.4 of this Deed of Trust, Trustor will exhibit to Beneficiary, within thirty (30) days after demand, bills (that will be receipted from and after the date receipted bills are obtainable) showing the payment to the extent then due of all taxes, assessments (including those payable in periodic installments), water rates, sewer rates, or any other Imposition that may have become a lien on the Property or any Personalty prior to the lien of this Deed of Trust.

SECTION 4.13. DUPLICATE PLANS.

Trustor will submit to Beneficiary a duplicate set of plans and specifications for approval before any material improvements, repairs, or alterations are begun that affect the Property.

SECTION 4.14. ADDITIONAL INFORMATION.

Trustor will furnish to Beneficiary, within thirty (30) days after written request, all information that Beneficiary may request concerning the performance by Trustor of the covenants of the Loan Documents, and Trustor will permit Beneficiary or its representatives at all reasonable times to make investigation or examination concerning that performance.

SECTION 4.15. RIGHT OF ENTRY.

Subject to the rights of tenants in possession, Trustor grants to Beneficiary and its agents, employees, consultants, and contractors the right to enter on the Property for the purpose of making any inspections, reports, tests (including, without limitation, soils borings, groundwater testing, wells, or soils analysis), inquiries, and reviews that Beneficiary, in its sole and absolute discretion, deems necessary to assess the then current condition of the Property. Beneficiary will provide Trustor with three (3) Business Day's notice of the entry. However, Trustor's consent will not be required for entry or for the performance of tests.

ARTICLE 5. NEGATIVE COVENANTS

Until the entire Indebtedness has been paid in full, Trustor covenants to and agrees with Beneficiary as follows:

SECTION 5.1. RESTRICTIVE USES.

Trustor covenants not to initiate, join in, or consent to any change in any zoning ordinance, private restrictive covenant, assessment proceedings, or other public or private restriction limiting or restricting the uses that may be made of the Property or any part of it without the prior written consent of Beneficiary.

SECTION 5.2. OTHER FINANCING.

Except for the liens securing the Indebtedness, Trustor will not create or permit to continue in existence any mortgage, pledge, encumbrance, lien, or charge of any kind (including purchase money and conditional sale liens) on any of the Property except for:

(a) liens for taxes not yet delinquent, and

(b) any other liens or charges that are specifically approved in writing by Beneficiary prior to the recordation. Any transaction in violation of this section will cause all Indebtedness, irrespective of the maturity dates, at the option of the holder and without demand or notice, to immediately become due, together with any prepayment premium in accordance with the terms of the Note.

SECTION 5.3. TRANSFERABILITY.

Trustor will not, prior to the third anniversary of the recordation of this Deed of Trust, sell, convey, assign, transfer, alienate, or otherwise dispose of its interest in the Property, either voluntarily or by operation of law, or agree to do so, without the prior written consent of Beneficiary. Thereafter, Trustor will not, prior to the third anniversary of the recordation of this Deed of Trust, sell, convey, assign, transfer, alienate, or otherwise dispose of its interest in the Property, either voluntarily or by operation of law, or agree to do so, without the prior written consent of Beneficiary, which consent will not be unreasonably withheld, delayed or conditioned. Consent to one transaction by Beneficiary will not be deemed a waiver of the right to require consent to further or successive transactions. If Trustor is a corporation, any sale, transfer, or disposition of fifty percent (50%) or more of the voting stock of Trustor or of any corporation that directly or indirectly owns or controls Trustor, including, without limitation, the parent company of Trustor and the parent company of the parent company of Trustor, will constitute a sale of the Property for purposes of this article. If Trustor is a partnership, any change or addition of a general partner of Trustor, change of a partnership interest of Trustor, or sale, transfer, or disposition of fifty percent (50%) or more of the voting stock or partnership interest of any partner of Trustor or of any corporation or partnership that directly or indirectly owns or controls any partner of Trustor, including, without limitation, each parent company of a partner of Trustor and each parent company of any parent company of a partner of Trustor, will constitute a sale of the Property for purposes of this section. Any transaction in violation of this section will cause all Indebtedness, irrespective of the maturity dates, at the option of the holder and without demand or notice, immediately to become due, together with any prepayment premium in accordance with the terms of the Note.

SECTION 5.4. REPLACEMENT OF FIXTURES AND PERSONALTY.

Trustor will not permit any of the Fixtures or Personalty to be removed at any time from the Property without the prior written consent of Beneficiary unless actually replaced by articles of equal suitability and value owned by Trustor free and clear of any lien or security interest except as may be approved in writing by Beneficiary.

ARTICLE 6.
ENVIRONMENTAL PROVISIONS

SECTION 6.1. COVENANTS.

After the Master Ground Lease terminates, Trustor agrees, except in the ordinary course of business and in strict compliance with all applicable Hazardous Substance Laws, as follows:

- (a) not to cause or permit the Property to be used as a site for the use, generation, manufacture, storage, treatment, Release, discharge, disposal, transportation, or presence of any Hazardous Substance;
- (b) not to cause, contribute to, permit, or acquiesce in any Release or threatened Release;
- (c) not to change or modify the use of the Property without the prior written consent of Beneficiary;
- (d) to comply with and to cause the Property and every User of the Property to comply with all Hazardous Substance Laws;
- (e) to immediately notify Beneficiary in writing and to provide Beneficiary with a reasonably detailed description of:
 - (i) any noncompliance of the Property with any Hazardous Substance Laws;
 - (ii) any Hazardous Substance Claim;
 - (iii) any Release or Threatened Release;
 - (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that would cause the Property or any part of it to be designated as hazardous waste property or border zone property under the provisions of Health and Safety Code ss.ss. 25220 et seq. and any regulation adopted in accordance with that section;
- (f) in the event that Trustor discovers a Release or the presence of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law, to:
 - (i) notify Lender of that discovery together with a reasonably detailed description;
 - (ii) promptly after a request by Beneficiary, engage a qualified environmental engineer reasonably satisfactory to Beneficiary to investigate these matters and prepare and submit to Beneficiary a written report containing the findings and conclusions resulting from that investigation, all at the sole expense of Trustor; and
 - (iii) take, at Trustor's sole expense, all necessary actions to remedy, repair, clean up, or detoxify any Release or Hazardous Substance, including, but not limited to, any remedial action required by any Hazardous Substance Laws or any judgment, consent, decree, settlement, or compromise in respect of any Hazardous Substance Claims, these actions to be performed:
 - (A) in accordance with Hazardous Substance Laws;
 - (B) in a good and proper manner;
 - (C) under the supervision of a qualified environmental engineer approved in writing by Beneficiary;

(D) in accordance with plans and specifications for these actions approved in writing by Beneficiary; and

(E) using licensed and insured qualified contractors approved in writing by Beneficiary;

(g) immediately furnish to Beneficiary copies of all written communications received by Trustor from any governmental authority or other person or given by Trustor to any person and any other information Beneficiary may reasonably request concerning any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law; and

(h) keep Beneficiary generally informed regarding any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law.

SECTION 6.2. INSPECTION AND RECEIVERSHIP RIGHTS.

After the termination of the Master Ground Lease, upon Beneficiary's reasonable belief of the existence of a past or present Release or threatened Release not previously disclosed by Trustor in connection with the making of the Loan or the execution of this Deed of Trust or upon Beneficiary's reasonable belief that Trustor has failed to comply with any environmental provision of this Deed of Trust or any other Loan Document and upon reasonable prior notice (except in the case of an emergency) to Trustor, Beneficiary or its representatives, employees, and agents, may from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater, and all books, records, and files of Trustor relating to the Property) and perform those acts and things that Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security of this Deed of Trust, for the purpose of determining:

(a) the existence, location, nature, and magnitude of any past or present Release or threatened Release;

(b) the presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law; and

(c) the compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document. In furtherance of the purposes above, without limitation of any of its other rights, Beneficiary may:

(i) obtain a court order to enforce Beneficiary's right to enter and inspect the Property under Civil Code ss. 2929.5, to which the decision of Beneficiary as to whether there exists a Release, a threatened Release, any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, or a breach by Trustor of any environmental provision of this Deed of Trust or any other Loan Document, will be deemed reasonable and conclusive as between the parties; and

(ii) have a receiver appointed under Code of Civil Procedure ss. 564 to enforce Beneficiary's right to enter and inspect the Property for the purpose set forth above.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustee and Beneficiary pursuant to this subsection (including without limitation court costs, consultant's fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Rate set forth in the note from the date they are incurred until those sums have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents will be for Beneficiary's purposes only and

will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision contained in this Deed of Trust or any Loan Document.

SECTION 6.3. RELEASE AND INDEMNITY.

Trustor:

(a) releases and waives any future claims against Beneficiary for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any Hazardous Substance Laws or under any Hazardous Substance Claim;

(b) agrees to reimburse Beneficiary, on demand, for all costs and expenses incurred by Beneficiary in connection with any review, approval, consent, or inspection relating to the environmental provisions in this Deed of Trust together with interest, after demand, at the Rate set forth in the note; and

(c) agrees to indemnify, defend, and hold Beneficiary and Trustee harmless from all losses, costs, claims, damages, penalties, liabilities, causes of action, judgments, court costs, attorney fees and other legal expenses, costs of evidence of title, cost of evidence of value, and other expenses (collectively, "Expenses"), including, but not limited to, any Expenses incurred or accruing after the foreclosure of the lien of this Deed of Trust, which either may suffer or incur and which directly or indirectly arises out of or is in any way connected with the breach of any environmental provision either in this Deed of Trust or in any Loan Document or as a consequence of any Release or threatened Release on the presence, use, generation, manufacture, storage, disposal, transportation, Release, or threatened Release of any Hazardous Substance on or about the Property, including the soils and groundwaters, caused or permitted by Trustor, any prior owner or operator of the Property, any adjoining landowner or any other party, including, without limitation, the cost of any required or necessary repair, cleanup, remedy, or detoxification of any Hazardous Substance and the preparation of any closure, remedial action, or other required plans, whether that action is required or necessary by reason of acts or omissions occurring prior to or following the recordation of this Deed of Trust. Trustor's obligations will survive the satisfaction, release, or cancellation of the Indebtedness, the release and reconveyance or partial release and reconveyance of this Deed of Trust, and the foreclosure of the lien of this Deed of Trust or deed in lieu of the Deed of Trust.

SECTION 6.4. REQUEST FOR INFORMATION.

Trustor and Beneficiary agree that:

(a) this Section 6.5 is intended as Beneficiary's written request for information and Trustor's written response concerning the environmental condition of the Property as provided by Code of Civil Procedure ss. 726.5; and

(b) each representation, warranty, covenant, or indemnity made by Trustor in this Article or in any other provision of this Deed of Trust or any Loan Document that relates to the environmental condition of the Property is intended by Trustor and Beneficiary to be an environmental provision for purposes of Code of Civil Procedure ss. 736 and will survive the payment of the Indebtedness and the termination or expiration of this Deed of Trust and will not be affected by Lender's acquisition of any interest in the Property, whether by full credit bid at foreclosure, deed in lieu of that, or otherwise. If there is any transfer of any portion of Trustor's interest in the Property, any successor-in-interest to Trustor agrees by its succession to that interest that the written request made pursuant to this Article will be deemed remade to the successor-in-interest without any further or additional action on the part of Beneficiary and that by assuming the debt secured by this Deed of Trust or by accepting the interest of Trustor subject to the lien of this Deed of Trust, the successor remakes each of the representations and warranties in this Deed of Trust and agrees to be bound by each covenant in this Deed of Trust, including, but not limited to, any indemnity provision.

**ARTICLE 7.
CASUALTIES AND CONDEMNATION**

SECTION 7.1. CASUALTIES.

After termination of the Master Ground Lease:

(a) Trustor will promptly notify Beneficiary in writing after any loss or damage caused by fire or other casualty to the Property, and prior to the making of any repairs. Trustor will furnish to Beneficiary within ninety (90) days after the loss or damage the following:

(i) evidence satisfactory to Beneficiary of the cost of repair or reconstruction;

(ii) evidence satisfactory to Beneficiary that sufficient funds are available or committed for the benefit of Beneficiary, including insurance proceeds, payment and performance bonds, or otherwise, to complete the repair or reconstruction; and

(iii) evidence satisfactory to Beneficiary that the repair or reconstruction may be completed in accordance with all applicable laws, rules, regulations, and ordinances and that all necessary permits and approvals have been or will be obtained.

If Trustor does not furnish this evidence to Beneficiary within the ninety-day period, or if Beneficiary in its sole discretion determines that repair or reconstruction is not economically feasible, then within thirty (30) days after the expiration of the ninety-day period, Beneficiary will have the option (in this Deed of Trust, "Repayment Option") to have all insurance proceeds applied against the Indebtedness. If Beneficiary elects the Repayment Option, Trustor will immediately transfer to Beneficiary all insurance proceeds received by it, if any, to the extent of the Indebtedness, and Beneficiary will apply the insurance proceeds received by it, if any, against the Indebtedness. If the insurance proceeds held by Trustor and Beneficiary will exceed the Indebtedness, any excess insurance proceeds will belong and be paid over to or be retained by Trustor.

(b) If Beneficiary does not elect the Repayment Option within the specified time period, Trustor will with all diligence repair or otherwise reconstruct the damage to the Property, all according to the original plans and specifications for the improvements and elevations or any modified plans and specifications conforming to the then laws and regulations as will first have been approved in writing by Beneficiary and any occupants of the Improvements having the right to approve. Beneficiary will use all insurance proceeds, if any, received by it relating to the damage or destruction to reimburse Trustor from time to time for expenditures made for repair of the damage or for the erection of any building, structure, or improvements in their place if permitted as follows:

(i) At the end of each month against Trustor's architect's certificate, an amount that will be that proportion of the insurance proceeds held in trust that eighty-five percent (85%) of the payments to be made to the contractors or materialmen for work done, materials supplied, and services rendered during that month bears to the total contract price.

(ii) At the completion of the work, the balance of the proceeds required for completing the payments for the work will be paid to or for the account of Trustor, provided that at the time of the payment:

(1) there are no liens (as evidenced by an endorsement satisfactory to Beneficiary issued by Trustee) against the Property by reason of the work, or proof satisfactory to Beneficiary has been submitted that all costs of the work have been paid; and

(2) Trustor's architect will certify that all required work is completed and is proper and of a quality and class of the original work required by the original plans and specifications and in accordance with the approved plans and specifications.

If the insurance proceeds exceed the costs of completing the work, the excess insurance proceeds will belong and be retained by or be paid over to Beneficiary to be applied against the Indebtedness. If the costs of completing the work exceed the insurance proceeds, Trustor will pay the balance of the costs of completing the work within thirty (30) days after the completion.

SECTION 7.2. CONDEMNATION.

Trustor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Property or any portion of it, will notify Trustee and Beneficiary of the pendency of the proceedings. Trustee and Beneficiary may participate in any proceedings and Trustor from time to time will deliver to Beneficiary all instruments requested by Beneficiary to permit participation. If there are condemnation proceedings, the award or compensation payable is assigned to and will be paid to Beneficiary. Beneficiary will be under no obligation to question the amount of any award or compensation and may accept it in the amount in which it is paid. In any condemnation proceedings, Beneficiary may be represented by counsel selected by Beneficiary. The proceeds of any award or compensation received will, at the option of Beneficiary, either be applied, without premium, to the prepayment of the Note or be paid over to Trustor for restoration of the Improvements in accordance with the provisions of Section 7.1 of this Deed of Trust.

ARTICLE 8. EVENTS OF DEFAULT AND REMEDIES OF BENEFICIARY

SECTION 8.1. EVENTS OF DEFAULT.

The following events are each an Event of Default :

- (a) Default in the payment of any sum of principal or interest if not paid within 20 days from the date due under the Note or any other sum due under the Loan Documents.
- (b) The failure (without cure during the applicable period, if any, for cure) of any Loan Party to observe, perform, or discharge any obligation, term, covenant, or condition of Loan Documents, any agreement relating to the Property, or any agreement or instrument between any Loan Party and Beneficiary.
- (c) The entry of an order for relief under federal bankruptcy laws as to Trustor or the adjudication of Trustor as insolvent or bankrupt pursuant to the provisions of any state insolvency or bankruptcy act; the commencement by Trustor of any case, proceeding, or other action seeking any reorganization, arrangement, composition, adjustment, liquidation, dissolution, or other relief for debtors; Trustor's consent to, acquiescence in, or attempt to secure the appointment of, any Receiver of all or any substantial part of its properties or of the Property; Trustor's generally not paying its debts as they become due or admitting in writing its inability to pay its debts or making a general assignment for the benefit of creditors; or Trustor's taking of any action to authorize any of the acts set forth above in this section.
- (d) Any case, proceeding, or other action against Trustor is commenced, seeking to have an order for relief entered against it as a debtor or seeking any reorganization, arrangement, composition, adjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation relating to bankruptcy, insolvency, reorganization, or other relief for debtors, or seeking appointment of any Receiver for Trustor or for all or any substantial part of its property or for the Property, and that case, proceeding, or other action:
- (i) results in the entry of an order for relief against it that is not fully stayed within seven (7) Business Days after the entry, or

(ii) remains undismissed for an aggregate of thirty (30) days (whether or not consecutive);

or the possibility that any portion of the Property would, by operation of law or otherwise, devolve on or pass to any Person other than Trustor and that situation continues and is not remedied by Trustor within thirty (30) days after the happening of the event.

(e) The assignment by Trustor, as lessor or sublessor, as the case may be, of the rents or the income of the Property or any part of it (other than to Beneficiary) without first obtaining the written consent of Beneficiary.

(f) The following events:

(i) The filing of any claim or lien against the Property or any part of it, whether or not the lien is prior to this Deed of Trust, and the continued maintenance of the claim or lien for a period of thirty (30) days without discharge, satisfaction, or adequate bonding in accordance with the terms of this Deed of Trust;

(ii) the existence of any interest in the Property other than those of Trustor, Beneficiary, and any tenants of Trustor; or

(iii) the sale, hypothecation, conveyance, or other disposition of the Property except in accordance with Sections 5.2 or 5.3 of this Deed of Trust, any of which will be an Event of Default because Trustor's obligation to own and operate the Property is one of the inducements to Beneficiary to make the Loan;

(g) Default under any agreement to which Trustor is a party, which agreement relates to the borrowing of money by Trustor from any Person.

(h) Any representation or warranty made by any Loan Party or any other Person under this Deed of Trust or in, under, or pursuant to the Loan Documents, is false or misleading in any material respect as of the date on which the representation or warranty was made.

(i) Any of the Loan Documents, at any time after their respective execution and delivery and for any reason, cease to be in full force or are declared null and void, or the validity or enforceability is contested by any Loan Party or any stockholder or partner of any Loan Party, or any Loan Party denies that it has any or further liability or obligation under any of the Loan Documents to which it is a party.

(j) Any of the Security Documents, at any time after their respective execution and delivery and for any reason, cease to constitute valid and subsisting liens or valid and perfected security interests in and to the property purported to be subject to any of the Security Documents;

(k) Any representation made by any Loan Party in the Certification Agreement is false or misleading in any material respect as of the date made, or any breach or default in any of Trustor's obligations under the Certification Agreement;

If one or more Event of Default occurs and is continuing, then Beneficiary may declare all the Indebtedness to be due and the Indebtedness will become due without any further presentment, demand, protest, or notice of any kind, and Beneficiary may:

(i) in person, by agent, or by a receiver, and without regard to the adequacy of security, the solvency of Trustor, or the existence of waste, enter on and take possession of the Property or any part of it in its own name or in the name of Trustee, sue for or otherwise collect the rents, issues, and profits, and apply them, less costs and expenses of operation and collection, including reasonable attorney fees, upon the Indebtedness, all in any order that Beneficiary may determine. The entering on and taking possession of the Property, the collection of rents, issues, and profits, and the application of them will not cure or waive any default or notice of default or invalidate any act done pursuant to the notice;

- (ii) commence an action to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages of real property;
- (iii) deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause the Property to be sold, which notice Trustee or Beneficiary will cause to be filed for record;
- (iv) with respect to any Personalty, proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect of the Land, or proceed to sell the Personalty separately and without regard to the Land in accordance with Beneficiary's rights and remedies; or
- (v) exercise any of these remedies in combination or any other remedy at law or in equity.

SECTION 8.2. POWER OF SALE.

- (a) If Beneficiary elects to foreclose by exercise of the power of sale in this Deed of Trust, Beneficiary will also deposit with Trustee this Deed of Trust, the Note, and any receipts and evidence of expenditures made and secured as Trustee may require. If notice of default has been given as then required by law, and after lapse of the time that may then be required by law, after recordation of the notice of default, Trustee, without demand on Trustor, will, after notice of sale having been given as required by law, sell the Property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels as Trustee determines, and in any order that it may determine, at public auction to the highest bidder. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time after that may postpone the sale by public announcement at the time fixed by the preceding postponement, and without further notice make the sale at the time fixed by the last postponement; or Trustee may, in its discretion, give a new notice of sale. Beneficiary may rescind any notice of default at any time before Trustee's sale by executing a notice of rescission and recording it. The recordation of the notice will constitute a cancellation of any prior declaration of default and demand for sale and of any acceleration of maturity of Indebtedness affected by any prior declaration or notice of default. The exercise by Beneficiary of the right of rescission will not constitute a waiver of any default then existing or subsequently occurring, or impair the right of Beneficiary to execute other declarations of default and demand for sale, or notices of default and of election to cause the Property to be sold, nor otherwise affect the Note or this Deed of Trust, or any of the rights, obligations, or remedies of Beneficiary or Trustee. After sale, Trustee will deliver to the purchaser its deed conveying the property sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts will be conclusive proof of their truthfulness. Any Person, including Trustor, Trustee, or Beneficiary, may purchase at that sale. If allowed by law, Beneficiary, if it is the purchaser, may turn in the Note at the amount owing on it toward payment of the purchase price (or for endorsement of the purchase price as a payment on the Note if the amount owing exceeds the purchase price). Trustor expressly waives any right of redemption after sale that Trustor may have at the time of sale or that may apply to the sale.
- (b) Trustee, upon the sale, will make (without any covenant or warranty, express or implied), execute and, after due payment made, deliver to a purchaser and its heirs or assigns a deed or other record of interest, as the case may be, to the Property sold, which will convey to the purchaser all the title and interest of Trustor in the Property and will apply the proceeds of the sale in payment:
 - (i) first, of the expenses of the sale together with the expenses of the trust, including, without limitation, attorney fees, that will become due on any default made by Trustor, and also any sums that Trustee or Beneficiary have paid for procuring a search of the title to the Property subsequent to the execution of this Deed of Trust; and

(ii) second, in payment of the Indebtedness then remaining unpaid, and the amount of all other monies with interest in this Deed of Trust agreed or provided to be paid by Trustor.

Trustee will pay the balance or surplus of the proceeds of sale to Trustor and its successors or assigns as its interests may appear.

SECTION 8.3. PROOF OF DEFAULT.

If there is a sale of the Property, or any part of it, and the execution of a deed for it, the recital of default and of recording notice of breach and election of sale, and of the elapsing of the required time between the recording and the following notice, and of the giving of notice of sale, and of a demand by Beneficiary that the sale should be made, will be conclusive proof of the default, recording, election, elapsing of time, and the due giving of notice, and that the sale was regularly and validly made on proper demand by Beneficiary. Any deed with these recitals will be effectual and conclusive against Trustor, its successors, and assigns, and all other Persons. The receipt for the purchase money recited or in any deed executed to the purchaser will be sufficient discharge to the purchaser from all obligations to see to the proper application of the purchase money.

SECTION 8.4. PROTECTION OF SECURITY.

If an Event of Default occurs and is continuing, Beneficiary or Trustee, without limitation to do so, without notice to or demand upon Trustor, and without releasing Trustor from any obligations or defaults may:

- (a) enter on the Property in any manner and to any extent that either deems necessary to protect the security of this Deed of Trust;
- (b) appear in and defend any action or proceeding purporting to affect, in any manner, the Obligations or the Indebtedness, the security of this Deed of Trust, or the rights or powers of Beneficiary or Trustee;
- (c) pay, purchase, or compromise any encumbrance, charge, or lien that in the judgment of Beneficiary or Trustee is prior or superior to this Deed of Trust; and
- (d) pay necessary expenses, employ counsel, and pay reasonable attorney fees.

Trustor agrees to repay on demand all sums expended by Trustee or Beneficiary pursuant to this section with interest at the Rate set forth in the note, and those sums, with interest, will be secured by this Deed of Trust.

SECTION 8.5. RECEIVER.

If an Event of Default occurs and is continuing, Beneficiary, as a matter of strict right and without notice to Trustor or anyone claiming under Trustor and without regard to the then value of the Property, will have the right to apply ex parte to any court having jurisdiction to appoint a Receiver of the Property, and Trustor waives notice of any application for that, provided a hearing to confirm the appointment with notice to Trustor is set within fourteen (14) days after the appointment. Any Receiver will have all the powers and duties of receivers in similar cases and all the powers and duties of Beneficiary in case of entry as provided in this Deed of Trust, and will continue as such and exercise all those powers until the date of confirmation of sale, unless the receivership is terminated sooner.

SECTION 8.6. CURING THE DEFAULTS.

If Trustor at any time fails to perform or comply with any of the terms, covenants, and conditions required on Trustor's part to be performed and complied with under this Deed of Trust, the Note, any of the other Loan Documents, or any other agreement that, under the terms of this Deed of Trust, Trustor is required to perform, then

Beneficiary, after seven (7) Business Days' notice to Trustor (or without notice if Beneficiary determines that an emergency exists), and without waiving or releasing Trustor from any of the Obligations, may, subject to the provisions of any of the agreements:

- (a) make from its own funds any payments payable by Trustor and take out, pay for, and maintain any of the insurance policies provided for; and
- (b) perform any other acts on the part of Trustor to be performed and enter on the Property for that purpose. The making by Beneficiary of payments out of Beneficiary's own funds will not, however, be deemed to cure the default by Trustor, and they will not be cured unless and until Trustor reimburses Beneficiary for the payments. All sums paid and all reasonable costs and expenses incurred by Beneficiary in connection with the performance of any act, together with interest on unpaid balances at the Rate set forth in the note from the respective dates of Beneficiary's making of each payment, will be added to the principal of the Indebtedness, will be secured by the Security Documents and by the lien of this Deed of Trust, prior to any right, title, or interest in or claim on the Property attaching or accruing subsequent to the lien of this Deed of Trust, and will be payable by Trustor to Beneficiary on demand.

SECTION 8.7. INSPECTION RIGHTS.

On reasonable notice (except in the case of an emergency), and without releasing Trustor from any obligation to cure any default of Trustor, Beneficiary or its agents, representatives, and employees acting by themselves or through a court-appointed receiver, may, from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater, and all books, records, and files of Trustor relating to the Property) and perform any acts and things as Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security of this Deed of Trust, for the purpose of determining:

- (a) the existence, location, nature, and magnitude of any past or present Release or threatened Release,
- (b) the presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, and
- (c) the compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document.

In furtherance of these purposes, without limitation of any of its other rights, Beneficiary may:

- (a) obtain a court order to enforce Beneficiary's right to enter and inspect the Property under Civil Code ss. 2929.5, to which the decision of Beneficiary as to whether there exists a Release, threatened Release, any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, or a breach by Trustor of any environmental provision of this Deed of Trust or any other Loan Document, will be deemed reasonable and conclusive as between Trustor, Trustee, and Beneficiary; and
- (b) have a receiver appointed under Code of Civil Procedure ss. 564 to enforce Beneficiary's right to enter and inspect the Property for Hazardous Substances.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustee and Beneficiary pursuant to this subsection (including, without limitation, court costs, consultants fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Rate set forth in the note from the date they are incurred until they have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents, will be for Beneficiary's purposes only and will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other

person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision in this Deed of Trust or any Loan Document.

SECTION 8.8. JUDGMENT ON ENVIRONMENTAL PROVISION.

Beneficiary or its agents, representatives, and employees may seek a judgment that Trustor has breached its covenants, representations, or warranties in Article 6 of this Deed of Trust or any other covenants, representations, or warranties that are deemed to be environmental provisions pursuant to Code of Civil Procedure ss. 736 (each an Environmental Provision"), by commencing and maintaining an action or actions in any court of competent jurisdiction pursuant to Code of Civil Procedure ss. 736, whether commenced prior to or after foreclosure of the lien of this Deed of Trust. Beneficiary or its agents, representatives, and employees may also seek an injunction to cause Trustor to abate any action in violation of any Environmental Provision and may seek the recovery of all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary (collectively, "Environmental Costs") incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action required by any Hazardous Substances Law, or any Hazardous Substance Claim, or which Beneficiary believes necessary to protect the Property. It will be conclusively presumed between Beneficiary and Trustor that all Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this subsection (including, without limitation, court costs, consultant fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Rate set forth in the note from the date of expenditure until those sums have been paid in full. Beneficiary will be entitled to bid, at any trustee's or foreclosure sale of the Property, the amount of the costs, expenses, and interest in addition to the amount of other Indebtedness.

SECTION 8.9. WAIVE LIEN.

Beneficiary or its agents, representatives, and employees may waive its lien against the Property or any portion of it, including the Improvements and the Personal Property, to the extent that the Property is found to be environmentally impaired in accordance with Code of Civil Procedure ss. 726.5, and to exercise all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order under Code of Civil Procedure ss. 483.010. As between Beneficiary and Trustor, for purposes of Code of Civil Procedure ss. 726.5, Trustor will have the burden of proving that Trustor or any related party (or any affiliate or agent of Trustor or any related party) was not in any way negligent in permitting the Release or threatened Release of the Hazardous Substances.

SECTION 8.10. EXCEPTION TO NONRECOURSE.

Trustor agrees that regardless of anything in this Deed of Trust or in the Loan Documents, the Environmental Costs will be exceptions to any nonrecourse or exculpatory provision of the Loan Documents, and Trustor will be fully and personally liable for the Environmental Costs. That liability will not be limited to the original principal amount of the obligations secured by this Deed of Trust, and Trustor's obligations will survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust. For the purposes of any action brought under this subsection, Trustor waives the defense of laches and any applicable statute of limitations.

SECTION 8.11. REMEDIES CUMULATIVE.

All remedies of Beneficiary provided for in this Deed of Trust are cumulative and will be in addition to all other rights and remedies provided in the other Loan Documents or provided by law, including any banker's lien and right of offset. The exercise of any right or remedy by Beneficiary will not in any way constitute a cure or waiver of

default, will not invalidate any act done pursuant to any notice of default, nor will it prejudice Beneficiary in the exercise of any of its rights unless, in the exercise of those rights, Beneficiary collects the total amount of the Indebtedness.

ARTICLE 9. SECURITY AGREEMENT

SECTION 9.1. GRANT OF SECURITY INTEREST.

Trustor also grants to Beneficiary a security interest in all of Trustor's right, title, and interest now owned or later acquired to the following property (collectively, "Collateral") now or later affixed to or located on the Property, or used in connection with the operation of the Property or the Improvements and all the proceeds of that property: the Personalty; the Fixtures; all machinery, equipment, engines, appliances, and fixtures for generating or distributing air, water, heat, electricity, light, fuel, or refrigeration, or for ventilating or sanitary purposes, or for the exclusion of vermin or insects, or for the removal of dust, refuse, or garbage; all wallbeds, wall safes, built-in furniture and installations, shelving, lockers, partitions, doorstops, vaults, motors, elevators, dumbwaiters, awnings, window shades, venetian blinds, light fixtures, fire hoses and brackets and boxes for them, fire sprinklers, alarm systems, draperies, drapery rods and brackets, mirrors, mantles, screens, linoleum, carpets and carpeting, plumbing, bathtubs, sinks, basins, pipes, faucets, water closets, laundry equipment, washers, dryers, iceboxes, refrigerators, heating units, stoves, ovens, ranges, dishwashers, disposals, water heaters, incinerators, furniture, fixtures, and furnishings; all communication systems; all specifically designed installations and furnishings; all building materials, supplies, and equipment now or later delivered to the Property; all office equipment, including, without limitation, all computers, computer systems, hardware and software, access codes, access keys, computer programs, file names, typewriters, duplicating machines, word processing equipment, adding machines, calculators, dictating equipment, printing presses, and related equipment; all inventories and supplies, including, without limitation, office supplies, soap, light bulbs, toilet paper, and linens; all clocks, television sets, radios, and other electronic or audio/video equipment; all podiums, microphones, movie and slide projectors and screens, and other property relating to conference and convention facilities; all security and cleaning deposits collected from any tenants or lessees of any part of the Property, all deposits collected from purchasers pursuant to contracts for sale of the Property or any portion of the Property; and, subject to the other provisions of this Deed of Trust, all proceeds of any fire and builders' risk insurance policy, or of any policy insuring the Property (and the contents of the Improvements) against any other perils, all awards made in eminent domain proceedings, or purchased in lieu of that, made with respect to the Property, and any compensation, award, payment, or relief given by any governmental agency or other source because of damage to the Property resulting from earthquake, flood, windstorm, or any emergency or any other event or circumstance. The specific enumerations in this Deed of Trust do not exclude the general.

The security interest also includes all additions to, substitutions for, changes in, or replacements of the whole or any part of these articles of property, together with all contract rights of Trustor in construction contracts, bonds, agreements for purchase and sale of the Property, all policies of insurance arising out of the improvement or ownership of the Property, and all accounts, contract rights, chattel paper, instruments, general intangibles, and other obligations of any kind now or later existing, arising out of, or in connection with the operation or development of the Property. The security interest also includes all rights now or later existing in all security agreements, leases, and other contracts securing or otherwise relating to any accounts, contract rights, chattel paper, instruments, general intangibles, or obligations; all causes of action and recoveries now or later existing for any loss or diminution in value of the Property; all proceeds of any of the Collateral; and, to the extent not otherwise included, all payments under insurance (whether Beneficiary is the loss payee), or any indemnity, warranty, or guaranty payable by reason of loss or damage to or otherwise with respect to any of the Collateral.

SECTION 9.2. REMEDIES.

This Deed of Trust constitutes a security agreement with respect to the Collateral in which Beneficiary is granted a security interest. Beneficiary has all of the rights and remedies of a secured party under the California Uniform Commercial Code as well as all other rights and remedies available at law or in equity. Trustor agrees to execute and

deliver on demand, and irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor to execute, deliver, and file, any security agreements, financing statements, continuation statements, or other instruments that Beneficiary may request to impose, perfect, or continue the perfection of the lien or security interest created by this Deed of Trust. On the occurrence of any Event of Default (taking into account any applicable period of grace or cure), Beneficiary will have the right to sell at any public or private sales as permitted by applicable law any of the Collateral that is personal property. Beneficiary will also have any other rights and remedies, whether at law, in equity, or by statute that are available to secured creditors. Any disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any Person, including both Trustor and Beneficiary, will be eligible to purchase any part or all of the Collateral at any disposition.

SECTION 9.3. EXPENSES.

Expenses of retaking, holding, and preparing for sale, selling, or the like will be borne by Trustor and will include Beneficiary's and Trustee's attorney fees and legal expenses. Trustor, on demand of Beneficiary, will assemble the Collateral and make it available to Beneficiary at the Property, a place deemed to be reasonably convenient to Beneficiary and Trustor. Beneficiary will give Trustor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of the Collateral or of the time of or after which any private sale or any other intended disposition is to be made. If the notice is sent to Trustor in the manner provided for the mailing of notices in this Deed of Trust, it is deemed reasonable notice to Trustor.

SECTION 9.4. FIXTURE FILING.

This Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the county in which the Property is located with respect to all Fixtures included within the term Property as used in this Deed of Trust and with respect to any goods, Collateral, or other personal property that may now be or later become fixtures.

SECTION 9.5. ASSIGNMENT OF AGREEMENTS.

(a) As partial security for the Loan, Trustor sells, assigns, transfers, sets over, and delivers to Beneficiary all of Trustor's right, title, and interest in all agreements, permits, and contracts pertaining to the use or operation of the Property, including, but not limited to, environmental impact reports; negative declarations; map approvals; grading and construction permits; conditional use permits; applications for all permits; management agreements; all development rights in the Property that Trustor may now or later acquire (including, without limitation, development rights arising in connection with any action by a governmental entity, including, by way of illustration, but not of limitation, inducement resolutions of county, municipal, or other governmental entities); agreements with contractors, suppliers, and construction managers; and agreements pertaining to the transfer of development rights or permitted floor area under applicable laws or ordinances (collectively, "Agreements"), as they may be amended or otherwise modified from time to time, including, without limitation, the right of Trustor to terminate any of the Agreements, to perform under them, and to compel performance and otherwise exercise all remedies under them, together with the immediate and continuing right to collect and receive all sums that may become due to Trustor, or which Trustor may now or later become entitled to demand or claim, arising or issuing out of the Agreements, including, without limitation, claims of Trustor for damages arising out of breach of or default under any of the Agreements and all rights of Trustor to receive proceeds of any insurance, indemnity, warranty, or guaranty with respect to any of the Agreements. However, so long as no Event of Default has occurred and is continuing, Trustor will have the right under a license granted to collect and retain all sums that may become payable to Trustor under the Agreements.

(b) Trustor covenants and agrees to punctually observe, perform, and discharge the obligations, terms, covenants, conditions, and warranties to be observed, performed, and discharged by it under the Agreements. Beneficiary, upon an Event of Default, at its option and upon written notice to Trustor, will have the right to declare the assignment in this Section 9.5 to be absolute, and, in addition, Beneficiary will have the complete right then or later to exercise and enforce all of the rights and remedies provided by law.

(c) The acceptance by Beneficiary of the assignment in this Article 9.5, with all the rights, powers, privileges, and authority granted will not, prior to the exercise of Beneficiary's right to declare the assignment in this Article 9.5 to be absolute, obligate Beneficiary to assume any obligations under the Agreements or to take any action under them, or to expend any money or incur any expense or perform or discharge any obligation, duty, or liability under the Agreements, or to assume any obligation or responsibility for the nonperformance of the provisions by Trustor.

ARTICLE 10. ASSIGNMENT OF LEASES AND RENTS

SECTION 10.1. ASSIGNMENT.

Trustor irrevocably assigns to Beneficiary

(a) all of Trustor's right, title, and interest in all leases; licenses; agreements relating to the management, leasing, or operation of the Property; and other agreements of any kind relating to the use or occupancy of the Property, whether now existing or entered into after the date of this Deed of Trust ("Leases"), and

(b) the rents, issues, and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases ("Payments"), for the purposes and on the terms and conditions below.

The term Leases will also include all guarantees of and security for the lessees' performance, and all amendments, extensions, renewals, or modifications that are permitted. This is a present and absolute assignment, not an assignment for security purposes only, and Beneficiary's right to the Leases and Payments is not contingent on, and may be exercised without, possession of the Property.

SECTION 10.2. LICENSE.

Beneficiary confers on Trustor a license ("License") to collect and retain the Payments as they become due until the occurrence of an Event of Default. Upon an Event of Default, the License will be automatically revoked and Beneficiary may collect and retain the Payments without notice and without taking possession of the Property. Trustor irrevocably authorizes and directs the lessees under the Leases to rely on and comply with any notice or demand by Beneficiary for the payment to Beneficiary of any rental or other sums that may at any time become due under the Leases, or for the performance of any of the lessees' undertakings under the Leases. The lessees will have no right or duty to inquire as to whether any Default has actually occurred or is then existing. Trustor relieves the lessees from any liability to Trustor by reason of relying on and complying with any notice or demand by Beneficiary.

SECTION 10.3. EFFECT OF ASSIGNMENT.

The assignment will not impose on Beneficiary any duty to produce rents, issues, or profits from the Property, or cause Beneficiary to be:

(a) a mortgagee-in-possession for any purpose;

(b) responsible for performing any of the obligations of the lessor under any of the Leases; or

(c) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property.

Beneficiary will not be liable to Trustor or any other party as a consequence of the exercise of the rights granted to Beneficiary under this assignment or the failure of Beneficiary to perform any obligation of Trustor arising under the Leases.

SECTION 10.4. LEASING COVENANTS.

Trustor covenants and agrees as follows:

(a) At Trustor's sole cost to:

- (i) perform all obligations of the lessor under the Leases and enforce performance by the lessees of their obligations under the Leases;
- (ii) subject to the provisions of Section 10.4(b)(iv) below, enforce all remedies available to Trustor in case of default by the lessees under any of the Leases and prosecute and defend any action, arbitration, or other controversy relating to any of the Leases or to Trustor's interest in any of the Leases;
- (iii) give Beneficiary prompt notice of any default that occurs under any of the Leases, whether by the lessees or Trustor;
- (iv) exercise diligent, good-faith efforts to keep all portions of the Property leased at all times and at rentals not less than the fair market rental value;
- (v) promptly upon execution, deliver to Beneficiary fully executed counterpart originals of the Leases; and

(b) except with Beneficiary's prior written consent, not to:

- (i) enter into any Leases after the date of this Deed of Trust;
- (ii) execute any other assignment relating to any of the Leases or the Payments;
- (iii) discount any rent or other sums due under the Leases or collect them in advance, other than to collect rent one (1) month in advance of the time when it becomes due;
- (iv) terminate, modify, or amend any of the terms of the Leases or release or discharge the lessees from any obligations;
- (v) consent to any assignment or subletting by any lessee; or
- (vi) subordinate any of the Leases to any other deed of trust or encumbrance.

Any attempted action in violation of the provisions of Section 10.4(b) will be voidable at Beneficiary's election.

SECTION 10.5. APPLICATION OF RENTS.

Beneficiary, in its sole discretion, may apply, or require the application of, all amounts received pursuant to the assignment to the payment of any one or more of the Obligations in any order that Beneficiary may elect.

SECTION 10.6. ESTOPPEL CERTIFICATES.

Within twenty (20) days after request by Beneficiary, Trustor will deliver to Beneficiary and to any party designated by Beneficiary estoppel certificates executed by Trustor and by each of the lessees, in recordable form, certifying:

- (a) that the assignment and the Leases are in full force;

(b) the date of each lessee's most recent payment of rent;

(c) that there are no defenses or offsets outstanding, or stating those claimed by Trustor or lessees under the assignment or the Leases,; and

(d) any other information reasonably requested by Beneficiary.

SECTION 10.7. REMEDIES.

In addition to any other remedies in this Deed of Trust, Beneficiary will have the following rights and remedies upon the occurrence of an Event of Default:

(a) To receive the Payments and any other amounts arising or accruing under the Leases or from the Property;

(b) To collect, sue for, settle, compromise, and give releases for the Payments and pursue any remedies for the enforcement of the Leases or Trustor's rights under the Leases; and

(c) To take possession of the Property, and hold, manage, lease, and operate it on any terms and for any period of time that Beneficiary may deem proper and, either with or without taking possession of the Property, in its own name, make from time to time all alterations, renovations, repairs, or replacements that Beneficiary may deem proper.

SECTION 10.8. DEFINITIONS.

The terms lessor and lessors as used in this Deed of Trust will include all owners, landlords, licensors, and other parties in a similar position with respect to the Leases. The terms lessee and lessees will include any tenants and licensees and any other parties in a similar position and will also include any guarantors of or other obligors under the Leases.

ARTICLE 11. MISCELLANEOUS

SECTION 11.1. SUCCESSOR TRUSTEE.

Beneficiary may remove Trustee or any successor trustee at any time and appoint a successor trustee by recording a written substitution in the county where the Property is located, or in any other manner permitted by law. Upon that appointment, all of the powers, rights, and authority of Trustee will immediately become vested in the successor.

SECTION 11.2. CHANGE OF LAW.

If any law is passed, after the date of this Deed of Trust, that deducts from the value of the Property, for the purposes of taxation, any lien on it, or changes in any way the laws now in force for the taxation of mortgages, deeds of trust, or debts secured by mortgage or deed of trust (other than laws imposing taxes on income) or the manner of the collection of any taxes so as to affect adversely the rights of Beneficiary as holder of the Note and Beneficiary under this Deed of Trust, the Indebtedness will become due at Beneficiary's option, exercised by thirty (30) days' notice to Trustor unless Trustor, within that thirty (30) day period, if permitted by law, assumes the payment of any tax or other charge imposed on Beneficiary for the period remaining until full payment by Trustor of the Indebtedness.

SECTION 11.3. NO WAIVER.

No waiver by Beneficiary of any default or breach by Trustor will be implied from any omission by Beneficiary to take action on account of that default if the default persists or is repeated. Also, no express waiver will affect any default other than the default in the waiver and the waiver will be operative only for the time and to the extent stated.

Waivers of any covenant, term, or condition in this Deed of Trust will not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by Beneficiary for any act by Trustor requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval for any subsequent similar act.

SECTION 11.4. ABANDONMENT.

Subject to any chattel mortgages, security agreements, or other liens on title that may exist with the consent of Beneficiary, or any provided for in this Deed of Trust, all Personalty that upon foreclosure of the Property is owned by Trustor and is used in connection with the operation of the Property will be deemed at Beneficiary's option to have become on that date a part of the Property and abandoned to Beneficiary in its then condition.

SECTION 11.5. NOTICES.

All notices, advices, demands, requests, consents, statements, satisfactions, waivers, designations, refusals, confirmations, or denials that may be required or contemplated under this Deed of Trust for any party to serve on or give to any other will be in writing, and, if not in writing, will not be deemed to have been given. Also, they must be either personally served or sent with return receipt requested by registered or certified mail with postage (including registration or certification charges) prepaid in a securely enclosed and sealed envelope as follows:

(a) If to Trustor, addressed to: Brenda Raceway Corporation 115 Barbaree Way Tiburon, California 94920

(b) If to Beneficiary, addressed to: Sonoma Funding Corporation c/o Speedway Motorsports, Inc. US Highway 29 North Post Office Box 600 Concord, North Carolina 28026-0600

SECTION 11.6. SURVIVAL.

The covenants and agreements in this Deed of Trust will bind and inure to the benefit of Beneficiary and Trustor and their successors and assigns. It is agreed that Beneficiary may assign to or grant a participation in any one or more lenders, free from any right of counterclaim, recoupment, or setoff by Trustor, Beneficiary's rights and obligations in whole or in part under the Loan Documents. Nothing in this Article 11.6 is intended to limit other provisions in the Loan Documents that by their terms survive the repayment of the Indebtedness or the termination of any Loan Document.

SECTION 11.7. SEVERABILITY.

If any term, provision, covenant, or condition of this Deed of Trust or any application of it is held by a court of competent jurisdiction to be invalid, void, or unenforceable, in whole or in part, all terms, provisions, covenants, and conditions of this Deed of Trust and all applications of it not held invalid, void, or unenforceable will continue in full force and will not be affected, impaired, or invalidated.

SECTION 11.8. REFERENCES TO FORECLOSURE.

References in this Deed of Trust to foreclosure and related phrases are references to the appropriate procedure in connection with Trustee's private power of sale, any judicial foreclosure proceeding, and any deed given in lieu of foreclosure.

SECTION 11.9. JOINDER OF FORECLOSURE.

If Beneficiary holds any other or additional security for the payment of any Indebtedness or performance of any Obligation, its sale or foreclosure, on any default in the payment or performance, in Beneficiary's sole discretion, may be prior to, subsequent to, or joined or otherwise contemporaneous with any sale or foreclosure. In addition to the rights in this Deed of Trust specifically conferred, Beneficiary, at any time and from time to time, may exercise any right or remedy now or later given by law to beneficiaries under deeds of trust generally, or to the holders of any obligations of the kind secured.

SECTION 11.10. RIGHTS OF BENEFICIARY AND TRUSTEE.

At any time and from time to time, without liability and without notice, and without releasing or otherwise affecting the liability of any person for payment of any Indebtedness,

(a) Beneficiary, at its sole discretion and only in writing, may extend the time for or release any Person now or later liable for payment of any Indebtedness, or accept or release additional security, or subordinate the lien or charge of this Deed of Trust, or

(b) Trustee, on written request of Beneficiary and presentation of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust for endorsement, may reconvey any part of the Property, consent to the making of any map or plat of it, join in granting any easement on it, or join in any agreement of extension or subordination.

On Beneficiary's written request and surrender of the Note, any additional notes secured by this Deed of Trust, and this Deed of Trust to Trustee for cancellation, and on payment to Trustee of its fees and expenses, Trustee will reconvey without warranty the then trust property. The recitals in any reconveyance will be conclusive proof of the truthfulness of them, and the grantee in any reconveyance may be described as the person legally entitled.

SECTION 11.11. COPIES.

Trustor will promptly give to Beneficiary copies of all

(a) notices of violation that Trustor receives from any governmental agency or authority, and

(b) notices of default that Trustor receives under any agreement relating to the borrowing of money by Trustor from any Person.

SECTION 11.12. ERISA COMPLIANCE.

Trustor will at all times comply with the provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), with respect to any retirement or other employment benefit plan to which it is a party as employer. As soon as possible after Trustor knows, or has reason to know, that any Reportable Event (defined in ERISA) with respect to any plan of Trustor has occurred, it will furnish to Beneficiary a statement in writing setting forth details about the Reportable Event and the action, if any, that Trustor proposes to take, together with a copy of the notice of the Reportable Event furnished to the Pension Benefit Guaranty Corporation. In addition, if at any time the loan evidenced by the Note is deemed in whole or in part to be a transaction prohibited by the provisions of ERISA, Trustor will immediately reimburse Beneficiary on demand for all taxes levied against or costs incurred by Beneficiary or Trustee by reason of the Reportable Event.

SECTION 11.13. SUBORDINATION.

At the option of Beneficiary, this Deed of Trust will become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to any insurance proceeds, damages, awards, or compensation resulting from damage to the Property or condemnation or exercise of power of eminent domain), to any contracts

of sale or any leases of the Property on the execution by Beneficiary and recording of a unilateral declaration to that effect in the official records of the county and state where the Property is located. Beneficiary may require the issuance of any title insurance endorsements to the Title Policy in connection with any subordination that Beneficiary, in its judgment, determines are appropriate, and Trustor will be obligated to pay any cost or expense incurred in connection with the issuance.

SECTION 11.14. NO MERGER.

So long as any of the Indebtedness remains unpaid or Beneficiary has any further obligation under the Loan Documents, unless Beneficiary otherwise consents in writing, the fee estate of Trustor in the Property or any part of it will not merge, by operation of law or otherwise, with any leasehold or other estate in the Property or any part of it, but will always be kept separate and distinct, regardless of the union of the fee estate and the leasehold or other estate in Trustor or any other Person.

SECTION 11.15. INSPECTION OF PROPERTY.

Beneficiary is authorized by itself or its agents, employees, or workers, to enter at any reasonable time on prior written notice to Trustor on any part of the Property for the purpose of inspecting it, and for the purpose of performing any of the acts it is authorized to perform under the terms of this Deed of Trust. Trustor agrees to cooperate with Beneficiary to facilitate any inspection.

SECTION 11.16. PERFORMANCE BY TRUSTOR.

Trustor will faithfully perform every covenant to be performed by Trustor under any lien or encumbrance, including, without limiting the generality of this Deed of Trust, mortgages, deeds of trust, leases, declarations or covenants, conditions and restrictions, and other agreements that affect the Property, in law or in equity, that Beneficiary reasonably believes may be prior and superior to or on a parity with the lien or charge of this Deed of Trust. A breach of or a default under any lien or encumbrance that exists after any applicable grace period in the pertinent instrument has expired without that breach or default having been cured, will constitute an Event of Default under this Deed of Trust. If Trustor fails to do so, Beneficiary, without demand or notice and in its sole judgment, may do any things required by Trustor by any of the provisions in this Deed of Trust and incur and pay expenses in connection with that. Nothing in this section affects Trustor's obligations pursuant to Sections 5.2 and 5.3 of this Deed of Trust or limits Beneficiary's rights.

SECTION 11.17. PERSONALTY SECURITY INSTRUMENTS.

Trustor agrees that if Beneficiary at any time holds additional security for any obligations secured by this Deed of Trust, it may enforce the terms of it or otherwise realize on it, at its option, either before or concurrently or after a sale is made under this Deed of Trust, and may apply the proceeds on the Indebtedness secured without affecting the status or waiving any right to exhaust any other security, including the security under this Deed of Trust, and without waiving any breach or default or any right or power, whether exercised under this Deed of Trust or in any other security.

SECTION 11.18. SUITS TO PROTECT PROPERTY.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or any additional or other security for the obligations secured, the interest of Beneficiary or the rights, powers, or duties of Trustee, and to pay all costs and expenses, including, without limitation, cost of evidence of title and attorney fees, in any action or proceeding in which Beneficiary or Trustee may appear or be made a party, including, but not limited to, foreclosure or other proceeding commenced by those claiming a right to any part of the Property under subordinate liens, in any action to partition or condemn all or part of the Property, whether pursued to final judgment, and in any exercise of the power of sale in this Deed of Trust, whether the sale is actually consummated.

SECTION 11.19. JUNIOR LIENS.

Trustor agrees:

- (a) that as of the date of this Deed of Trust there are no encumbrances to secure debts junior to this Deed of Trust and
- (b) that there are to be none as of the date when this Deed of Trust becomes of record.

SECTION 11.20. FURTHER ADVANCES.

On the request of Trustor or its permitted successors in ownership of the Land, Beneficiary may, at its option, at any time before full payment of the Indebtedness, make further advances to Trustor or the successors in ownership, with interest and late charges to be secured by this Deed of Trust. However, the amount of principal secured by this Deed of Trust and remaining unpaid will not at the time of and including any advance exceed the original principal sum secured. Also, if Beneficiary, at its option, makes a further advance or advances, Trustor or the successors in ownership agree to execute and deliver to Beneficiary a note, payable on or before the maturity of the Indebtedness secured and bearing any other terms that Beneficiary will require.

SECTION 11.21. WAIVER OF STATUTE OF LIMITATIONS.

The pleading of any statute of limitations as a defense to any obligations secured by this Deed of Trust is waived, to the fullest extent permissible by law.

SECTION 11.22. CHARGES FOR STATEMENTS.

Trustor agrees to pay Beneficiary's reasonable charge, to the maximum amount permitted by law, for any statement regarding the obligations secured by this Deed of Trust requested by Trustor or on its behalf.

SECTION 11.23. ENTIRE AGREEMENT.

This Deed of Trust and the other Loan Documents set forth the entire understanding between Trustor and Beneficiary and they will not be amended except by a written instrument duly executed by each of Trustor and Beneficiary. Any previous representations, warranties, agreements, and understandings among the parties regarding the subject matter of the Loan or the Loan Documents, whether written or oral, are superseded by this Deed of Trust and the other Loan Documents.

SECTION 11.24. INCORPORATION.

All terms of the Loan Documents are incorporated in this Deed of Trust by this reference. All persons who may have or acquire an interest in the Property will be deemed to have notice of the terms of the Loan Documents and to have notice, if provided for, that the rate of interest on one or more Obligations may vary from time to time.

SECTION 11.25. WAIVER OF MARSHALING RIGHTS.

Trustor, for itself and for all parties claiming through or under Trustor, and for all parties who may acquire a lien on or interest in the Property, waives all rights to have the Property or any other property that is now or later may be security for any Obligation ("Other Property") marshaled on any foreclosure of this Deed of Trust or on a foreclosure of any other security for any of the Obligations. Beneficiary will have the right to sell, and any court in which foreclosure proceedings may be brought will have the right to order a sale of, the Property and any of the Other Property as a whole or in separate parcels, in any order that Beneficiary may designate.

SECTION 11.26. ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUSTEE.

Trustee accepts this trust when this Deed of Trust is recorded. From time to time on written request of Beneficiary and presentation of this Deed of Trust for endorsement, and without affecting the personal liability of any person for payment of any indebtedness or the performance of any obligations, Trustee may, without liability and without notice:

- (a) reconvey all or any part of the Property;
- (b) consent to the making of any map or plat; and
- (c) join in any grant of easement, any declaration of covenants, conditions, and restrictions, any extension agreement, or any agreement subordinating the lien or charge of this Deed of Trust.

Except as may be required by applicable law, Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trust and the enforcement of the rights and remedies available, and may obtain orders or decrees directing, confirming, or approving acts in the execution of the trust and the enforcement of the remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding, including, without limitation, actions in which Trustor, Beneficiary, or Trustee will be a party, unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee will not be obligated to perform any act required of it under this Deed of Trust unless the performance of the act is requested in writing and Trustee is reasonably indemnified and held harmless against any loss, cost, liability, or expense.

SECTION 11.27. RELEASES, EXTENSIONS, MODIFICATIONS, AND ADDITIONAL SECURITY.

Without notice to or the consent, approval, or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Obligations ("Interested Parties"), Beneficiary may, from time to time, release any person or entity from liability for the payment or performance of any Obligation; take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Obligation; or accept additional security or release the Property or other security for any Obligation. None of these actions will release or reduce the personal liability of any of the Interested Parties, or release or impair the lien of this Deed of Trust, or the priority of it on the Property. However, no action taken or agreement made by Beneficiary to extend the maturity or otherwise alter the terms or increase the amount of any Obligation will be binding on Trustor without Trustor's consent.

SECTION 11.28. RECONVEYANCE.

Upon the payment and performance of all Obligations, including, without limitation, Beneficiary's receipt of all sums owing and outstanding under the Note, Beneficiary will deliver to Trustee a written request for reconveyance, and will surrender to Trustee for cancellation this Deed of Trust and any note or instrument evidencing the Obligations. However, Beneficiary will have no obligation to deliver the written request and documents until Beneficiary has been paid by Trustor, in immediately available funds, all escrow, closing, and recording costs, the costs of preparing and issuing the reconveyance, and any trustee's or reconveyance fees. On Trustee's receipt of the written request by Beneficiary and the documents, Trustee will reconvey, without warranty, the Property or that portion then held. To the extent permitted by law, the reconveyance may describe the grantee as the person or persons legally entitled and the recitals of any matters or facts in any reconveyance will be conclusive proof of the truthfulness of them. Neither Beneficiary nor Trustee will have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Property has been fully reconveyed, the last reconveyance will operate as a reassignment of all future rents, issues, and profits of the Property to the person legally entitled.

SECTION 11.29. SUBROGATION.

Beneficiary will be subrogated to the lien of all encumbrances, whether released of record, paid in whole or in part by Beneficiary pursuant to this Deed of Trust, or by the proceeds of any loan secured by this Deed of Trust.

SECTION 11.30. RULES OF CONSTRUCTION.

When the identity of the parties or other circumstances make it appropriate, the singular number includes the plural.

SECTION 11.31. SUCCESSORS IN INTEREST.

The terms, covenants, and conditions in this Deed of Trust will be binding on and inure to the benefit of the heirs, successors, and assigns of the parties. However, this section does not waive the provisions of Article 6.11.

SECTION 11.32. NO OFFSET.

Trustor will pay to Beneficiary all amounts owing under the Note, this Deed of Trust, or any of the other Obligations without deduction, offset, or counterclaim of any kind.

SECTION 11.33. GOVERNING LAW.

The parties expressly agree that this Deed of Trust (including, without limitation, all questions regarding permissive rates of interest) will be governed by or construed in accordance with the laws of California and federal law, where applicable.

In Witness Whereof, Trustor has executed this Deed of Trust as of the day and year first above written.

BRENDA RACEWAY CORPORATION, a
California corporation

By: /s/ H. Skip Berg
Its: Chairman

ACKNOWLEDGEMENT

State of California)
)ss.
County of Sonoma)

On November 18, 1996, before me, Bryan D. Buchanan, personally appeared Harvey Skip Berg, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

/s/ Bryan D. Buchanan
NOTARY PUBLIC

Exhibit 99.4

PROMISSORY NOTE SECURED BY DEED OF TRUST

\$13,452,987.80 Santa Rosa, California November 18, 1996

For value received, the undersigned, Brenda Raceway Corporation, a California corporation ("Borrower"), promises to pay to the order of Sonoma Funding Corporation, a California corporation ("Lender"), at Concord, North Carolina or at any other place that may be designated in writing by Lender, the principal sum of Thirteen Million, Four Hundred Fifty-Two Thousand Nine Hundred Eighty-Seven Dollars and Eighty Cents \$13,452,987.80, with interest as set forth in this Note (calculated on the basis of a 360-day year). All sums due are payable in lawful money of the United States of America. The principal amount of this Note will bear interest at the rate of four percent (4%) per annum.

This Note is secured by the Deed of Trust, Security Agreement, and Fixture Filing, with Assignment of Rents and Agreements of the same date as this Note, executed by Borrower, as trustor, in favor of Lender, as beneficiary ("Deed of Trust"), and encumbering the real property described in the Deed of Trust ("Property"). The holder of this Note will be entitled to the benefits of the security provided by the Deed of Trust and will have the right to enforce the covenants and agreements of Borrower contained in the Deed of Trust.

Borrower will pay to Lender the principal amount of this Note, and accrued interest, as follows:

Borrower will make initial monthly installments of interest only, in arrears, on the first day of the first calendar month after the date of recordation of the Deed of Trust, and continuing on the first day of each calendar month thereafter through October 1999. Commencing on November 1, 1999, and thereafter on the first day of each calendar month, Borrower will make 324 equal monthly installments of principal and interest, which will be in the amount of \$67,836.30 each. The final payment of this Note, in the amount of the entire outstanding principal balance of this Note, together with all accrued and unpaid interest, will be due on November 1, 2026 ("Maturity Date").

If Borrower fails to make any required payment on or before 20 days following the date on which it becomes due, Borrower will pay, at Lender's option, a late charge equal to three percent (3%) of the amount of the unpaid payment.

All payments on this Note will be applied first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Note; next, to the payment of accrued interest; then to the reduction of the principal balance; or in any other order that Lender requires.

If: (a) Borrower fails to pay when due any sums payable under this Note;

(b) an Event of Default (defined in the Deed of Trust) occurs; or

(c) any other event or condition occurs that, under the terms of the Deed of Trust, gives rise to a right of acceleration of sums owing under this Note,

then Lender, at its sole option, will have the right to declare all sums owing under the Note immediately due. However, if any document related to this Note provides for the automatic acceleration of payment of sums owing under this Note, all sums owing will be automatically due in accordance with the terms of that document.

Borrower will have the right to pay, without penalty or premium, on any monthly payment date, all or any portion of the outstanding principal amount of this Note prior to the Maturity Date on not less than five (5) days' prior written notice to Lender. Lender will apply all prepayments first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Note; next, to the payment of accrued interest; then to the outstanding principal amount of this Note in inverse order of maturity, or, at the option of Lender, in the regular order of maturity; or in any other order that Lender requires.

Borrower will pay to Lender all sums owing under this Note without deduction, offset, or counterclaim of any kind. The relationship of Borrower and Lender under this Note is solely that of borrower and lender, and the loan evidenced by this Note and secured by the Deed of Trust will in no manner make Lender the partner or joint venturer of Borrower.

If any attorney is engaged by Lender to enforce or construe any provision of this Note, the Deed of Trust, or the other Loan Documents (defined in the Deed of Trust) or as a consequence of any Event of Default, with or without the filing of any legal action or proceeding, then Borrower will immediately pay to Lender on demand all attorney fees and other costs incurred by Lender, together with interest at a like rate from the date of the demand until paid.

No previous waiver or failure or delay by Lender in acting with respect to the terms of this Note, the Deed of Trust, or the other Loan Documents will constitute a waiver of any breach, default, or failure of condition under this Note, the Deed of Trust, or the other Loan Documents. A waiver of any term of this Note, the Deed of Trust, or the other Loan

Documents must be made in writing and will be limited to the express written terms of the waiver. If there are any inconsistencies between the terms of this Note and the terms of any of the other Loan Documents, the terms of this Note will prevail.

All notice required or permitted in connection with this Note will be in writing and will be given at the place and in the manner provided in the Deed of Trust for the giving of notices.

If this Note is executed by more than one person or entity as Borrower, the obligations of each person or entity will be joint and several. No person or entity will be a mere accommodation maker, but each will be primarily and directly liable. Borrower waives presentment; demand; notice of dishonor; notice of default or delinquency; notice of acceleration; notice of protest and nonpayment; notice of costs, expenses, or losses and interest; notice of interest on interest and late charges; and diligence in taking any action to collect any sums owing under this Note or in proceeding against any of the rights or interests to properties securing payment of this Note. Time is of the essence with respect to every provision of this Note. This Note will be construed and enforced in accordance with California law, except to the extent that Federal laws preempt state law, and all persons and entities in any manner obligated under this Note consent to the jurisdiction of any Federal or State Court within California having proper venue and also consent to service of process by any means authorized by California or Federal law.

Subject to the exceptions described below, Borrower will not be personally liable for the payment of the indebtedness evidenced by this Note or the other Loan Documents, and any judgment or decree in any action brought to enforce the obligation of Borrower to pay the indebtedness will be enforceable against Borrower and the partners in Borrower, if any, only to the extent of Borrower's interest in the Property and any other collateral pledged, encumbered, or otherwise covered by the Loan Documents. Any judgment or decree will not be subject to execution, or be a lien, on the assets of Borrower and the partners in Borrower, if any, other than Borrower's interest in the Property and any other collateral pledged, encumbered, or otherwise covered by the Loan Documents.

(a) Regardless of the limitation of liability above, except to the extent which Borrower shall diligently enforce the corresponding provisions in the Master Ground Lease (as defined in the Deed of Trust) and pursue all available remedies thereunder, Borrower will be fully liable for the following:

(i) failure to pay taxes, assessments, and any other charges that could result in liens against any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents;

(ii) failure to pay and discharge any mechanics' liens, materialmen's liens, or other liens against any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents;

- (iii) fraud or intentional misrepresentation with respect to any representations, warranties, or certifications made in the Loan Documents, or otherwise made by Borrower in connection with the loan evidenced by this Note;
- (iv) retention by Borrower of any rental income or other income arising with respect to any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents subsequent to the date of any notice of an Event of Default from Lender to Borrower, or which, under the terms of the Loan Documents, should otherwise have been paid to Lender;
- (v) all insurance proceeds, condemnation awards, or other similar funds or payments attributable to the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents that, by its terms, should have been paid to Lender or used in a manner contrary to the use made by Borrower;
- (vi) waste of the Property, or any other failure to maintain, repair, or restore any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents in accordance with the terms;
- (vii) the removal, demolition, damage, or destruction of any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents that is neither consented to in writing by Lender nor fully compensated for by insurance proceeds or condemnation awards;
- (viii) the consequences of the failure of the Loan Documents to constitute a first and prior lien or security interest, as applicable, on the Property or any other collateral pledged, encumbered, or otherwise covered, subject only to those exceptions, if any, permitted by any of the Loan Documents or otherwise approved in writing by Lender;
- (ix) the breach of any Environmental Provision (defined in the Deed of Trust); and
- (x) all legal costs and expenses reasonably incurred by Lender after the giving to Borrower of notice of the occurrence of an Event of Default, other than those customarily incurred by a lender in realizing on its lien in an uncontested foreclosure sale after an undisputed default.
- (b) Nothing in this paragraph will affect or limit the rights of Lender to enforce any of Lender's rights or remedies with respect to any portion of the Property or any other collateral pledged, encumbered, or otherwise covered by the Loan Documents.

(c) Nothing in this paragraph will affect or limit the rights of Lender to proceed against any person or entity, including, without limitation, Borrower or any member of Borrower's board of directors or trustees with respect to the enforcement of any guarantees of payment, performance, and completion or other similar rights.

Brenda Raceway Corporation,
a California corporation

By: /s/ H. Skip Berg
Its: Chairman

Promissory Note
Secured by Deed of Trust Page 5 of 5

EXHIBIT 99.5

(Speedway logo appears here)

PRESS CONTACT: Jerry Gappens (704) 455-3209
FINANCIAL CONTACT: Lauri E. Wilks (704) 455-3299
-- For Immediate Release

SPEEDWAY MOTORSPORTS NEW SEARS POINT RACEWAY OPERATOR

CONCORD, N.C. (Nov. 13, 1996) -- Speedway Motorsports, Inc. (NYSE:TRK), is the new operator of Sears Point Raceway, a multi-use motorsports complex located in Sonoma, Calif.

O. Bruton Smith, Chairman of Speedway Motorsports, Inc., and Skip Berg, chairman of Brenda Raceway Corporation, owner of Sears Point Raceway, made the announcement today.

Speedway Motorsports has agreed to purchase certain tangible and intangible assets of the company along with a long-term lease for the facility's real property. As part of the agreement, Speedway Motorsports may exercise a purchase option for the real property, which includes approximately 800 acres of land and permanent structures, after three years.

Smith expects no major changes in the daily operation of the facility or movement of any major events on its schedule. Current track president Steve Page will continue in that capacity.

Located a few miles northwest of San Francisco in the heart of California wine country and in the nation's fifth largest consumer market, Sears Point Raceway is one of the most active motorsports complexes in the world. The facility features a 2.52-mile, 12-turn road course, which is the site of an annual NASCAR Winston Cup race, and a 1/4-mile drag strip.

"We are delighted to add Sears Point Raceway to our company portfolio," said Smith. "This is a very important market for motorsports' continued growth and we are excited our company will have the opportunity to conduct business here, and we are determined to help NASCAR racing grow in California."

Opening in 1968, Sears Point Raceway hosted its first professional race in September 1969. Early events included USAC Indy cars, NHRA drag racing, SCCA Trans Am, IMSA GT, AMA motorcycles and AMA motorcross.

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TRK
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In 1980 the name was changed to Golden State Raceway, but was changed back to Sears Point International Raceway after one year. Later, the "International" was dropped from the name.

An NHRA national event was added in 1988, and an annual NASCAR Winston Cup date was added in 1989. Other major events includes IMSA sports cars, AMA motorcycles, NASCAR trucks and major vintage race meets.

Similar to SMI's Charlotte Motor Speedway, Sears Point is booked with a number of non-racing events, including driving schools, motion picture filming, commercial shoots, automobile testing, ride and drives and other activities.

The facility includes an industrial park, which features 160,000 square feet of rental space. The space is fully leased to 75 automotive-related companies.

"I think this is truly one of the world's greatest road courses," said Smith. "Naturally, based on our track record, I think we can make improvements to the facility that hopefully Northern California fans will appreciate. Plans are underway to continue upgrading the facility with additional seating and other amenities found at Speedway Motorsports, Inc., facilities."

Speedway Motorsports, a New York Stock Exchange listed company and owner and operator of Atlanta Motor Speedway, Bristol Motor Speedway, Charlotte Motor Speedway, Texas International Raceway and 600 Racing, is a leading marketer and promoter of motorsports entertainment in the United States.

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EDITORS' NOTE: A taped audio transcript of the teleconference regarding this announcement is available (through 7 p.m. (EST) Friday, Nov. 15) by calling 1-800-696-1563. Ask for the Speedway Motorsports conference and enter confirmation number 152589.

(Speedway logo appears here)

SPEEDWAY MOTORSPORTS, INC.
ATLANTA, BRISTOL, CHARLOTTE & TEXAS MOTOR SPEEDWAYS
600 RACING
P.O. BOX 600, CONCORD, NC 28026-0600
704-455-3239 704-455-2547 FAX
http: www.raceshop.com(.)

Speedway Motorsports, Inc.
History of Company Expansion

February 1995 - Started trading as public company on the New York Stock Exchange with ownership of Atlanta Motor Speedway, Charlotte Motor Speedway, and planned development and construction of Texas International Raceway and 600 Racing, Inc.

May 1995 - Acquired 50 percent ownership of North Wilkesboro Speedway in North Carolina from the Combs family. It is a .625-mile short track speedway that hosts various events, including two NASCAR Winston Cup races. For 1997, the two NASCAR Winston Cup dates have been moved to SMI's Texas International Raceway in April and to the privately-owned New Hampshire Speedway.

January 1996 - Purchased Bristol International Raceway in Bristol, Tenn., from speedway owner-founder Larry Carrier. One of the most successful short tracks in the country, the .533-mile oval hosts two of the most exciting NASCAR Winston Cup races on the schedule. Renamed facility Bristol Motor Speedway and announced expansion plans to take seating capacity to approximately 130,000 by August 1997.

July 1996 - Purchased Bristol International Dragway from owner Rick Ruth. The facility, located next to Bristol Motor Speedway, was purchased for strategic operation and use of land to accommodate long-term capital improvements for the overall facility.

October 1996 - Signed a joint management and development agreement with Quad-Cities International Raceway Park. The planned multi-use facility, which includes a 1.5-mile superspeedway, is located in northwest Illinois. The agreement grants Speedway Motorsports the option to purchase up to 40 percent equity ownership in the facility.

November 1996 - Purchased Sears Point Raceway in Sonoma, California. Sears Point Raceway is a multi-use facility, which features a 2.52-mile road course with a variety of events, including one NASCAR Winston Cup race each year.

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Exhibit 99.6

(Speedway Motorsports, Inc. logo appears here)

Financial Contact: Lauri E. Wilks - 704-455-3299 Press Contact: Jerry Gappens - 704-455-3209 -For Immediate Release

SPEEDWAY MOTORSPORTS ANNOUNCES DETAILS OF SEARS POINT RACEWAY ACQUISITION CONCORD, N.C. (Nov. 20, 1996) -- Speedway Motorsports (NYSE:TRK) successfully closed its purchase of Sears Point Raceway, a multi-use motorsports complex located in Sonoma, Calif.

In a transaction which closed November 18, 1996, Speedway Motorsports purchased certain assets including vehicles, equipment, machinery, furnishings, leases, contract rights, good will, and accounts receivable and executed a long-term lease for real property, including 800 acres of land and the permanent structures thereon. Speedway Motorsports has the option to purchase the real property after three years for \$38.1 million, subject to acceleration at the option of the seller. The cost of the option is \$3.5 million and may be applied to the purchase price of the real property.

Other material details of the transaction include a loan by Speedway Motorsports of approximately \$14 million to the seller of Sears Point Raceway to cover the seller's outstanding obligations on the real property. This loan is secured by a mortgage on the real property and the outstanding principal amounts under the loan will be credited against the amount due from

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Speedway Motorsports upon exercise of this real property option.

As the new operator of Sears Point Raceway, officials of Speedway Motorsports are delighted about the addition of this 2.52-mile, 12-turn road course which is the site of an annual NASCAR Winston Cup race, and a 1/4-mile drag strip, and host to an annual NHRA national event. When not hosting major racing events, Sears Point is active with a number of non-racing events, including driving schools, motion picture filming, commercial shoots, automobile testing, ride and drives and other activities.

"We are excited about this strategic acquisition and believe that it shows our commitment to enhancing stockholder value," said Bruton Smith, chairman and chief executive officer of Speedway Motorsports. "Sears Point Raceway is located in the fifth largest consumer market in the nation and is a vacation destination point. This combination along with our promotional and construction expertise and the experience of current management allow for excellent growth opportunities."

"Monday our architects and engineers spent the entire day studying the facility. We will develop a capital improvement plan to upgrade the facility to the same standards as other Speedway Motorsports facilities," Smith added.

Speedway Motorsports, the owner and operator of Atlanta, Bristol, Charlotte, and Texas Motor Speedways, 600 Racing and the operator of Sears Point Raceway, is a leading marketer and promoter of motorsports entertainment in the United States.

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NOTE: SPEEDWAY MOTORSPORTS WILL HOST A CONFERENCE CALL TODAY AT 1:30 P.M. EST TO DISCUSS THIS TRANSACTION. TO CONNECT TO THE CALL PLEASE DIAL 212-346-7489, CONFIRMATION NUMBER #2201200, AND ASK TO BE CONNECTED TO THE SPEEDWAY MOTORSPORTS CONFERENCE CALL REGARDING THE SEARS POINT ACQUISITION.

End of Filing

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