

# J. P. KING AUCTION COMPANY, INC.

## REAL PROPERTY SALE CONTRACT

**Spokane Raceway Park  
Airway Heights (Spokane County), Washington  
April 10, 2008 at 1:00 P.M. (P.T.)**

BIDDER NO. \_\_\_\_\_

PARCEL NO. \_\_\_\_\_

THIS REAL PROPERTY SALE CONTRACT ("Sale Contract"), made April 10, 2008, by and between Washington Motorsports Limited Partnership, by Barry W. Davidson, as General Receiver (the "Receiver"), as appointed by the Superior Court, State of Washington, County of Spokane, Case No. 03-2-06856-4 (the "Court"), pursuant to an Order entered July 1, 2005, and subsequently recorded under Spokane County Auditor's File 5515096, as to Parcel 1 and Parcel 2 ("Seller"), whose address is 1340 Bank of America Center, 601 W. Riverside Avenue, Spokane, WA 99201, and

\_\_\_\_\_ ("Buyer"),  
whose address is \_\_\_\_\_

Seller is represented in this sale by J. P. King Auction Company, Inc. ("King"), an Alabama corporation headquartered at 108 Fountain Avenue in Gadsden, Alabama 35901 (telephone 800-662-5464 or 256-546-5217 and facsimile 256-543-8036) and its broker, Errold R. Sutter ("Broker") whose address is 27329 Northridge Road, Davenport, Washington 99122 (unless otherwise noted, King and Broker collectively referred to as "Auctioneer").

NOW, THEREFORE, in consideration of the agreements and covenants herein, and other good and valuable consideration, the adequacy and receipt of which are acknowledged, the parties being duly authorized and empowered to execute this Sale Contract and intending to be legally bound agree as follows:

### AGREEMENTS

#### **ARTICLE I – AGREEMENT TO PURCHASE**

**1.1.** Seller, subject to Court approval, agrees to sell and Buyer agrees to buy, pursuant to the terms herein, the real property described below ("Property"), .

**1.2.** The terms for the Auction ("Terms of Auction") are incorporated into this Sale Contract which defines the entire agreement between Seller and Buyer for the purchase and sale of the Property, whether by auction ("Auction") or otherwise.

**1.3.** The Terms of Auction complement this Sale Contract and may differ in some respects from it. In the event of any conflict between the Terms of Auction and this Sale Contract, the Sale Contract shall control in all instances.

**1.4.** In the event of a sale of the Property other than by Auction, Buyer is advised that the Terms of Auction are still incorporated into this Sale Contract to define the entire agreement between Seller and Buyer for the purchase and sale of the Property, and Buyer is advised to obtain, read, and fully understand the Terms of Auction before entering into this Sale Contract.

#### **ARTICLE II – THE PROPERTY**

**2.1.** The Property is described in the legal description contained in the title commitment prepared by LandAmerica Transnation ("Property"). The Property, as shown on the *Parcel Exhibit Map*, dated March 18, 2008 (last revision date), prepared by USKH Engineering of Spokane, Washington, is located within the City of Airway Heights (Spokane County), Washington.

2.2. Should any survey, now existing or later made, indicate greater or lesser acreage or square footage in the Property than represented by Seller or Auctioneer, no adjustment will be made to the purchase price (“total contract price”) to be paid by Buyer to Seller for the Property.

**ARTICLE III – TOTAL CONTRACT PRICE**

3.1. The Property’s selling price and scheduled payments follows:

HIGH BID PRICE: (\_\_\_\_\_Acres X \$\_\_\_\_\_per Acre)..... \$\_\_\_\_\_

ADD – 10.00 % BUYER'S PREMIUM..... \$\_\_\_\_\_

TOTAL CONTRACT PRICE..... \$\_\_\_\_\_

LESS – EARNEST MONEY DEPOSIT (10.00%) \$\_\_\_\_\_

BIDDER DEPOSIT \$(\_\_\_\_\_)

BALANCE EARNEST MONEY DEPOSIT TO PAY..... \$(\_\_\_\_\_)

BALANCE OF TOTAL CONTRACT PRICE OWED..... \$\_\_\_\_\_

3.2. All payments must be made in U. S. Dollars.

3.3. Buyer’s earnest money deposit (“Buyer’s deposit”) shall be paid to LandAmerica Transnation, the designated escrow/closing agent (“Escrow Agent”), and Escrow Agent shall administer the deposit and conduct the closing of the sale of the Property (“closing”).

3.4. This is a cash sale which, except for the requirement of subsequent Court approval, is not contingent upon any other matter including, but not limited to, Buyer’s ability to obtain financing for this purchase.

3.5. The balance of the total contract price owed by Buyer for the Property does not include Buyer’s closing costs, any costs associated with financing, any prepaid or prorated closing charges, or taxes applicable to Buyer.

**ARTICLE IV – DISCLAIMER**

4.1. As a material part of the consideration for this Agreement, Seller and Buyer agree that the Property is being sold in “AS IS, WHERE IS” condition with all burdens, circumstances, defects, faults, dangers, hazards, issues, material facts, problems, and other relevant matters, whether latent or patent, whether past, present, or future, and whether or not referenced herein, or in the Terms of Auction, and Buyer knowingly, voluntarily, unconditionally, and irrevocably waives, releases, and discharges Seller and Auctioneer from any claim that Buyer may otherwise have had with respect to the Property, the Auction, this Sale Contract, and the transaction contemplated.

4.2. To the fullest extent allowed by law, Seller, Receiver and Auctioneer unconditionally disclaim any guarantee, representation, and warranty of every kind, whether expressed, implied, or statutory, whether oral or written, with respect to the Property, the surrounding area, the Auction, the Terms of Auction and all matters referenced therein (including, but not limited to, all matters referred to within this Article, plus the section on “Bidder’s Due Diligence” included in the Terms of Auction), plus all other relevant matters, whether past, present, or future, and whether or not referenced herein, in the Terms of Auction, or elsewhere, except for limited warranties that may be given by Seller to Buyer in the deed of conveyance, or as expressly stated herein.

4.3. Maps, depictions, and sketches included in the marketing material for the Auction are for illustration purposes only and neither Seller, Receiver nor Auctioneer warrant or guarantee these materials or related information to be accurate or complete.

4.4. Buyer acknowledges and agrees that it is Buyer’s exclusive responsibility to make and independently verify such factual, legal, and other inquiries, inspections, investigations, and studies as Buyer deems appropriate, desirable, and necessary with respect to the Property, the Auction, this Sale Contract, and this sale, all of which shall be at Buyer’s exclusive cost, and Seller, Receiver and Auctioneer shall have no liability whatsoever on any basis or in any amount.

4.5. Buyer acknowledges and agrees that, in executing this Sale Contract and purchasing the Property, Buyer is not relying upon any guarantee, representation, or warranty of any kind that Seller, Receiver and Auctioneer have disclaimed, nor is Buyer relying upon any assertion, brochure, claim, document, information, literature, map, projection,

sketch, or statement of any kind with respect to the Property and any improvements thereon, including the surrounding area and all relevant circumstances, facts, issues, and matters, whether past, present, or future, whether expressed or implied, whether oral or written, whether material or immaterial, and whether given or made by, or on behalf of, Seller, Receiver or Auctioneer. Instead, Buyer is relying solely upon Buyer's independent due diligence, inspection, investigation, and findings with respect to the Property, the surrounding area, the Auction, the Terms of Auction and all relevant matters whether past, present, or future, and whether or not referenced herein, in the Terms of Auction, or elsewhere.

**4.6.** Seller, Receiver and Auctioneer shall not be liable to Buyer for any relief, including, but not limited to, adjustment, allowance, damages, reformation, or rescission, based upon the failure of the Property to conform to any specific condition, expectation, standard, or any third-party documents or information.

**4.7.** Buyer shall look only to Seller, and not Receiver or Auctioneer, with respect to all matters regarding the sale of the Property and this Sale Contract.

#### ***ARTICLE V – FIXTURES AND PERSONAL PROPERTY***

**5.1.** This sale includes all built-in appliances, cabinets, fixtures, carpet (attached wall-to-wall), installed systems (cooling, electrical, heating, lighting, mechanical, plumbing, and vacuum), in-ground plantings (including flowers, shrubbery, and trees), window treatments (blinds, drapes, and hardware), and all other items and things permanently attached to the Property.

**5.2.** A personal property list was not provided by the Seller. Except as provided herein, no personal property, including, without limitation, mobile homes, vehicles, trailers, and equipment, shall convey with the real estate, unless otherwise agreed with the Buyer and authorized by the Court. The Seller, if authorized by the Court, may abandon and leave any personal property remaining on the premises at closing, with no liability for clean up or removal. The Seller, Receiver and Auctioneer shall have no liability whatsoever to Buyer for any subsequent claim of variance, deficiency, or defect in any the personal property that may be conveyed.

#### ***ARTICLE VI – DISCLOSURES***

**6.1.** Any disclosures made and information given by Seller, Receiver and/or Auctioneer to Buyer regarding the Property and any improvements thereon, the surrounding area, and all circumstances, facts, issues, and other matters relevant to this sale are provided subject to the disclaimers stated herein. All disclosures, information, representations, and statements made or given are attributable solely to Seller and not Receiver or Auctioneer, and these represent Seller's belief at the time this Sale Contract was drafted, but nothing is guaranteed or warranted to be accurate, complete, or correct.

**6.2.** A list of property specific disclosures has been made a part of this Sale Contract as referenced herein.

**6.3.** State law enforcement may maintain a database of known sex offenders who reside within the area. Information regarding sex offenders may be obtained by contacting local law enforcement authorities. Buyer relies exclusively upon Buyer's own due diligence and inquiry into this issue and Buyer acknowledges having done all of the research that Buyer desires to do or, in the alternative, Buyer waives the right to research this issue prior to entering into this Sale Contract. Buyer unconditionally and irrevocably acknowledges and agrees that Buyer has not relied upon Seller, Receiver or Auctioneer for any information regarding this issue and Seller and Auctioneer are not required to provide any additional information regarding the proximity to the Property of registered sex offenders.

#### ***ARTICLE VII – BUYER'S DEPOSIT***

**7.1.** Immediately upon the execution of this Sale Contract, Buyer shall pay Ten percent (10.00%) of the total contract price for the Property as Buyer's deposit to Escrow Agent to be held on deposit by Escrow Agent in a designated bank escrow account, insured by Federal Deposit Insurance Corporation, and Escrow Agent shall administer the funds in accordance with this Sale Contract. Any interest earned on the bank escrow account shall be payable to the Seller.

**7.2.** The parties agree Escrow Agent shall be relieved of all liability and held harmless by them so long as Escrow Agent holds Buyer's Deposit and makes any disbursement from it in accordance with this Sale Contract and the Escrow Agreement previously executed by Escrow Agent with Seller and Auctioneer.

**7.3.** In the event of any controversy regarding Buyer's Deposit, Escrow Agent shall not be required to take any action, but may await the result of any proceeding, or at Escrow Agent's discretion, interplead Buyer's deposit into the Court for determination, and Escrow Agent shall thereafter have no liability whatsoever on any basis and for any amount with regards to Buyer's deposit and this Sale Contract.

**ARTICLE VIII – BROKER INVOLVEMENT**

**8.1.** Buyer warrants that Buyer (check one) ... [ \_\_\_\_\_ is] ... [ \_\_\_\_\_ is not] ... represented by a qualified, licensed, real-estate broker in this transaction. If Buyer is represented by a broker, the broker’s full name, firm, and address are:

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**8.2.** Buyer warrants not to have contacted or communicated with any real-estate agent or broker about the Property, other than Auctioneer and any broker identified in the previous paragraph, and no other real-estate agent or broker was in any way instrumental in effecting this sale of the Property and there are no brokerage commissions, expenses, fees, or other sums due to any other real-estate agent or broker.

**8.3.** Buyer agrees to hold Seller, Receiver and Auctioneer harmless against any claim by any real-estate agent or broker not properly registered with and qualified by Auctioneer in the Buyer-Broker Incentive Program (see below), and Buyer shall indemnify Seller, Receiver and Auctioneer against any action, arbitration, award, claim, cost, damage, deficiency, demand, expense, injury, judgment, liability, loss, or suit of every kind, including attorneys’ fees and costs of defense, asserted by a real-estate agent or broker as a result of, or in relation to, the Auction, this Sale Contract, the transaction contemplated, or any related dealings involving Buyer, Seller, , Receiver and/or Auctioneer.

**8.4.** Buyer understands that upon closing, Seller shall pay Auctioneer a commission pursuant to the terms of a separate, written agreement.

**ARTICLE IX – BUYER-BROKER INCENTIVE PROGRAM**

**9.1.** If the Buyer-Broker Incentive Program is in effect for the Auction, a properly licensed broker (“Buyer-Broker”) who timely registers and qualifies with Auctioneer in accordance with the terms of this program shall be paid a commission by Seller at closing, in accordance with the terms of this program, provided that both Buyer-Broker and the Buyer that Buyer-Broker represents fulfill all requirements under the Terms of Auction, this Sale Contract, and this incentive program.

**9.2.** If for any reason closing does not occur, including, but not limited to, the default of any party hereto, no commission shall be due or paid to any Buyer-Broker and Seller, Receiver and Auctioneer shall have no liability on any basis and for any amount.

**ARTICLE X – INTENTIONALLY LEFT BLANK**

**ARTICLE XI – CASUALTY**

**11.1.** All risk of loss or damage to the Property shall be borne exclusively by Seller until closing. Immediately upon closing, all risk of loss shall be borne exclusively by Buyer.

**11.2.** In the event the Property is, in the opinion of Seller, significantly damaged or destroyed by fire or other casualty after the execution of this Sale Contract and before closing, Seller shall have the option to restore the Property to its pre-casualty condition or cancel this Sale Contract, after giving written notice to Buyer of the option Seller selects. In the event Seller chooses to cancel this Sale Contract, Buyer’s deposit shall be promptly and fully refunded and this shall be a complete and final settlement with Buyer of all of Seller’s obligations to Buyer herein, or otherwise relating to the Property and this sale. Should Seller desire to restore the Property to its pre-casualty condition, Seller shall have one hundred twenty (120) days, immediately following the date on which written notice is given to Buyer, to complete restoration. In the event Seller timely completes restoration, Seller shall give written notice of this fact to Buyer and closing shall immediately occur. In the event Seller does not timely complete restoration, Buyer shall have the option to give written notice to Seller of Buyer’s intention to terminate this Sale Contract and Buyer’s obligations herein shall then be immediately ended and Buyer’s deposit shall be promptly and fully refunded, together with any interest accrued thereon, if applicable, or Buyer may continue to seek performance from Seller under this Sale Contract.

**ARTICLE XII – SELLER’S BREACH**

**12.1.** This sale is contingent on subsequent Court approval. If such approval is granted, and if Seller thereafter defaults in the performance of any term or obligation herein and closing does not timely occur as a result, Buyer shall have the option to give Seller written notice of Buyer’s intention to terminate this Sale Contract and Buyer’s obligations

herein shall be immediately ended and Buyer's deposit shall be promptly and fully refunded, together with any interest accrued thereon, if applicable, or Buyer may have all rights allowed by law and in equity and pursuant to this Sale Contract, including the right to pursue a claim against Seller for specific performance of this Sale Contract, including Seller's payment of Buyer's reasonable attorneys' fees and costs.

**12.2.** In no event shall Auctioneer or Receiver have any liability whatsoever on any basis and for any amount as a result of Seller's breach of this Sale Contract or other wrongful act or omission.

### ***ARTICLE XIII – BUYER'S BREACH***

**13.1.** If Buyer defaults in the performance of any term or obligation herein and closing does not timely occur as a result, Seller shall give written notice to Buyer that Buyer's deposit shall be immediately forfeited to Seller and King (but not King's Broker) as reasonable liquidated damages and not as a penalty against Buyer. Seller and King (but not King's Broker) shall equally split Buyer's deposit between them and keep their respective shares. Buyer forever waives and releases any right to sue Seller, Receiver Auctioneer, or Escrow Agent to recover the Buyer's deposit, or any part thereof, on the grounds that it is unreasonable in amount, or that its retention by Seller and Auctioneer is wrongful or a penalty not agreed upon by the parties as reasonable liquidated damages.

**13.2.** If Buyer defaults in the performance of any term or other obligation herein and closing does not timely occur as a result, Seller shall have all rights allowed by law and in equity and pursuant to this Sale Contract, including the right to pursue a claim against Buyer for additional damages, specific performance of this Sale Contract, or cancellation of the sale, and including Buyer's payment of Seller's reasonable attorneys' fees and costs.

**13.3.** In no event shall Auctioneer have any liability whatsoever on any basis and for any amount as a result of Buyer's breach of this Sale Contract or other wrongful act or omission of the Buyer.

### ***ARTICLE XIV – CONVEYANCE AND TITLE***

**14.1** Seller shall convey fee simple title to the Property to Buyer by Bargain and Sale Deed, free and clear of all liens and encumbrances, except as specified in the "exceptions" of the title commitment, the Terms of Auction, this Sale Contract, and subject to all existing covenants, easements, restrictions, and matters of record.

**14.2.** Buyer agrees to accept title to the Property subject to: (a) all standard exclusions and printed exceptions set forth in the owner's policy of title insurance, including all matters that would be disclosed by a current and accurate survey of the Property, (b) taxes and liens for taxes not yet due and payable, (c) easements for public utilities affecting the Property, (d) all other easements or claims to easements, covenants, restrictions, and rights-of-way affecting the Property; (e) rights and claims of any persons in possession, (f) all title exceptions referenced in the title commitment, (g) land-use laws, (g) applicable statutes, rules, and regulations, (h) zoning ordinances, and (i) all matters herein waived by Buyer (individually and collectively (a) through (i) are referred to as "permitted title exceptions").

**14.3.** If the title commitment reveals a defect in title which is not one of the permitted title exceptions, or if prior to closing a new defect in title is disclosed by an updated endorsement to the title commitment, which defect is not one of the permitted title exceptions, prior to closing Buyer may either waive such defect or give written notice of such to Seller and Escrow Agent not later than five (5) days from the date of discovery of such defect in title, whereupon Seller may, at its option, attempt to cure such defect prior to closing, or decline to cure the defect. If Buyer has given written notice to Seller of a defect in title which Buyer does not waive, and Seller is unable or unwilling to cure the defect on or before closing, this Sale Contract shall be terminated without liability to either party and Buyer's deposit shall be promptly and fully refunded, together with any interest accrued thereon, if applicable, except that, upon written notice to Buyer, Seller shall have the right, at Seller's sole election, to extend the date of closing by up to sixty (60) days, but not longer, to allow time for Seller to attempt to cure any defect in title.

**14.4.** Seller shall not voluntarily create or cause any lien or other encumbrance to attach to the Property between the date this Sale Contract is made and closing.

### ***ARTICLE XV – CLOSING***

**15.1.** Closing shall be conducted at the office of Escrow agent, LandAmerica Transnation whose address is 105 West Third Avenue, Spokane, Washington 99201 (telephone 509-922-2222), on or before thirty (30) days immediately following the date of the Court Order approving the sale of the Property ("closing date"), unless said Court Order is stayed by a Court of competent jurisdiction.

**15.2.** At closing, Seller shall deliver to Buyer the deed provided for herein to convey good and clear title to the Property to Buyer, and Buyer shall pay to Seller the balance of the purchase price owed in cash or by confirmed bank wire transfer of funds.

**15.3.** Seller shall solely pay the costs for preparing the deed and all other legal documents needed to convey title to the Property to Buyer, including reproduction costs and the costs to record the release of every encumbrance against the Property, plus Seller's attorney's fees.

**15.4.** Buyer shall solely pay the costs for the owner's policy of title insurance, the transfer (documentary) taxes on the deed, the costs for recording the deed, and all other closing, financing, and sale costs, plus Buyer's attorney's fees.

**15.5.** The current year's assessments and any special assessments, association dues and fees, current year's *ad valorem* taxes, insurance, interest, rents, and all similar items applicable shall be prorated between Seller and Buyer to the closing date, with Buyer being responsible for the day of closing. Should any additional assessments, other costs, or taxes be levied or charged as a result of any change of use of the Property attributable to Buyer, such amounts shall be the exclusive responsibility of Buyer to pay.

**15.6.** Closing may be conducted by mail.

**15.7.** Seller shall grant Buyer possession of the Property immediately upon closing.

#### ***ARTICLE XVI – ASSIGNMENT AND THIRD PARTIES***

**16.1.** Neither party may assign or transfer any interest in this Sale Contract without the prior, written consent of the other.

**16.2.** Nothing contained in this Sale Contract, or in any document or instrument executed by a party in connection with the sale contemplated, shall create any rights in, or be deemed to have been executed for, the benefit of any person or entity not a party hereto, except as expressly provided herein.

#### ***ARTICLE XVII – AGENCY***

**17.1.** The parties understand and agree that Auctioneer is acting solely as a single agent and exclusively representing Seller on this Sale Contract, the transaction contemplated, and all related matters, and Auctioneer is not acting as a sub-agent, Buyer's agent, or limited consensual dual agent.

#### ***ARTICLE XVIII – HOLD HARMLESS AND INDEMNIFICATION***

**18.1.** A party at fault shall hold a party not at fault, as well as Auctioneer and Receiver, harmless from, and indemnify the party not at fault against, any action, arbitration, award, claim, cost, damage, deficiency, demand, expense, indemnity, injury, judgment, liability, loss, obligation, or suit of every kind, including reasonable attorneys' fees and costs of defense, asserted by any person, real or artificial, or by any entity of government, that the party not at fault incurs as a result of any act, error, omission, or wrongdoing attributable to the party at fault or that party's agents, assigns, attorneys, brokers, contractors, directors, employees, invitees, licensees, members, officers, representatives, shareholders, or successors in interest, and which arises out of this Sale Contract, the transaction contemplated, or the related dealings of the parties, except as expressly provided herein.

#### ***ARTICLE XIX – NOTICE***

**19.1.** Any notice between the parties permitted, required, or otherwise relating to this Sale Contract, the transaction contemplated, or the related dealings of the parties, shall be given in writing including, but not limited to, notice which addresses approval, breach, cancellation, claim, closing, complaint, consent, default, demand, objection, option, termination, waiver, or exercise of right.

**19.2.** Notice shall be deemed given by a party and effective on the date when personally delivered to the other party or, in lieu of personal delivery, when addressed to the other party at the address set forth herein and deposited in the mail handled by the United States Postal Service and sent certified mail with postage prepaid and a receipt retained, or sent by a nationally-recognized overnight courier or delivery service with a receipt retained.

**19.3.** A copy of any notice shall simultaneously be given to Auctioneer at the addresses listed on page one of this Sale Contract.

#### ***ARTICLE XX – LEGAL ACTION***

**20.1.** Any action, claim, controversy, or dispute arising out of this Sale Contract including, but not limited to, its breach, enforcement, interpretation, termination, validity, or the transaction contemplated, the Auction, or any related dealings between Seller, Bidder, Buyer, and/or Auctioneer or Receiver ("Sale Issues"), whether controlled by federal or state law, and whether an issue of law or equity, shall be determined and resolved exclusively by the Court

**20.2.** Each party unconditionally and irrevocably waives all right to a trial by jury in any action, proceeding, or counterclaim arising out of or related to this Sale Contract, the transactions contemplated, and the related dealings of the parties.

**20.3.** The prevailing party in any legal dispute shall be entitled to collect from the other its full costs, including reasonable attorneys' fees.

#### ***ARTICLE XXI – BINDING EFFECT***

**21.1.** This Sale Contract shall be binding upon the parties and their agents, assigns, attorneys, beneficiaries, brokers, directors, distributees, employees, executors, heirs, legatees, members, officers, representatives, shareholders, and successors in interest.

#### ***ARTICLE XXII – CHOICE OF LAW, JURISDICTION, AND VENUE***

**22.1.** This Sale Contract, the transaction contemplated, and all related dealings of the parties shall be exclusively construed and governed in accordance with the laws of the State of Washington, without regard to its conflict of laws principles.

**22.2.** The exclusive jurisdiction and venue for any controversy or claim between the parties shall be within the Court.

#### ***ARTICLE XXIII – SEVERABILITY, HEADINGS, PRONOUNS, AND CONSTRUCTION***

**23.1.** If any clause or provision of this Sale Contract is held illegal, invalid, or unenforceable, it is the parties' intention that the remainder of this Sale Contract shall not be affected and, in lieu of such clause or provision that is held illegal, invalid, or unenforceable, there shall be added, as a part of this Sale Contract, a clause or provision as similar in term and effect as such illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

**23.2.** Article headings are for reference only and not intended to expand or restrict the scope or substance of the provisions of this Sale Contract. Any reference herein to an Article heading includes all relevant sections, subsections, and paragraphs within that Article.

**23.3.** Words used in the present tense also include the past and future tense, as the context requires.

**23.4.** Wherever used in this Sale Contract, the singular shall include the plural, the plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter, as the context requires.

**23.5.** The parties agree that this Sale Contract have been mutually agreed upon by them and no legal inference, presumption, principle, or other rule of draftsmanship or construction shall be used in favor of or against either of them.

#### ***ARTICLE XXIV – MISCELLANEOUS***

**24.1.** Buyer certifies to be of legal age and have full capacity and competence to understand, enter into, execute, and deliver this Sale Contract.

**24.2.** If Buyer is purchasing the Property on behalf of an arm of government or business entity (i.e., corporation, limited liability company, etc.) ("artificial person"), Buyer shall be personally liable under this Sale Contract until such time as the artificial person presents Seller with acceptable, written evidence of the artificial person's good standing in its state of formation, plus a duly-passed and executed resolution or similar written authority from its board of directors or other governing authority that authorizes the purchase of the Property and agrees for the artificial person to be bound by this Sale Contract.

**24.3.** This Sale Contract may be signed in multiple counterparts and each shall be an original of this Sale Contract, with all counterparts constituting a single instrument.

**24.4.** A facsimile signature shall be considered as valid as an original signature.

**24.5.** This Sale Contract and the incorporated Terms of Auction contain the entire undertaking between the Seller and Buyer regarding the Auction, the transaction contemplated, and all related dealings of the parties, and there are no oral or written agreements, inducements, promises, representations, or warranties other than those expressly set forth.

**24.6.** This Sale Contract supersedes any previous agreement, negotiation, or understanding between the Seller and Buyer regarding the transaction contemplated, and such have been merged here and shall not survive execution of this Sale Contract.

**24.7.** No deletion, modification, supplement, or waiver of any term of this Sale Contract shall be effective unless made in writing and executed by the parties with the same formality as this Sale Contract.

**24.8.** The failure of either party to insist upon the strict performance of any term of this Sale Contract shall not be construed as a waiver of any subsequent default of the same or similar nature.

**24.9.** Each party had the opportunity to seek the independent advice of legal counsel of its choosing and each has either done so or has voluntarily decided to forgo such advice, with full understanding of the risk involved in this course with regard to the Property, Auction, Sale Contract, and this sale..

**24.10.** Each party acknowledges that it has received and read the Terms of Auction and this Sale Contract in their entirety, understands and fully accepts all of the terms contained, and has received an executed copy of this Sale Contract.

**24.11.** In addition to any other attachments, exhibits, or other documents or materials referenced herein, the following Attachments are attached hereto and incorporated herein by reference:

- Exhibit A - Property Specific Disclosures
- Exhibit B - Agency Disclosure
- Attachment I - Parcel Exhibit Map
- Attachment II - Title Commitment
- Attachment III - Phase I Environmental Site Assessment

***ARTICLE XXV – TIME OF THE ESSENCE***

**25.1.** Time is of the essence of this Sale Contract. Each party shall fully perform all respective obligations herein at such times as to ensure that closing occurs on the date specified, or any mutually agreed-upon extension of that date.

***ARTICLE XXVI – SURVIVAL***

**26.1.** This Sale Contract and all of its terms shall survive closing.

IN WITNESS WHEREOF, the parties being duly authorized and empowered have agreed to the terms herein and executed this Sale Contract intending to be legally bound.

ADDRESS:  
  
1340 Bank of America Center  
601 West Riverside Avenue  
Spokane, WA 99201

SELLER: Washington Motorsports Limited Partnership,  
By and Through Barry W. Davidson, As General Receiver

Signature \_\_\_\_\_  
Barry W. Davidson, As General Receiver

ADDRESS:  
\_\_\_\_\_  
\_\_\_\_\_

BUYER:

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Social Security No. \_\_\_\_\_

Federal Tax ID No. \_\_\_\_\_

Phone No. (Work) \_\_\_\_\_

(Home) \_\_\_\_\_

(Fax ) \_\_\_\_\_

ADDRESS:  
\_\_\_\_\_  
\_\_\_\_\_

BUYER:

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Social Security No. \_\_\_\_\_

Federal Tax ID No. \_\_\_\_\_

Phone No. (Work) \_\_\_\_\_

(Home) \_\_\_\_\_

(Fax ) \_\_\_\_\_

## EXHIBIT A

### PROPERTY SPECIFIC DISCLOSURES

**DISCLAIMER:** Seller, Receiver and Auctioneer (this term to include Broker) do not, here or otherwise, attempt to provide Bidder with all of the information Bidder may need to conduct due diligence and make an informed decision about the Auction and Property. Participation in the Auction is at Bidder's sole risk and Seller, Receiver and Auctioneer, plus their agents, brokers, contractors, employees, and representatives shall have no liability whatsoever on any basis. The Property will be offered and sold in "AS IS, WHERE IS" condition with all defects, faults, issues, and related problems. To the fullest extent allowed by law, Seller, Receiver and Auctioneer unconditionally disclaim any guarantee, representation, or warranty of every kind, whether expressed, implied, or statutory, whether oral or written, whether past, present, or future, with respect to all issues and matters affecting, involving, or related in any way to the Auction and Property, except as expressly provided for in the *Terms of Auction* and the *Real Property Sale Contract*. The disclosures that follow are made to Bidders to assist them in performing their due diligence, but this list is not represented to be complete or correct and there may be other defects, facts, faults, issues, items, problems, and other relevant matters affecting, involving, or related in some way to the Property. Bidders should govern themselves accordingly.

#### **General**

**Washington State Outdoor Advertising Sign Permits:** The Seller makes no representation regarding the status of certification or availability of Washington State Outdoor Advertising Sign Permits for the Property, wherever located.

**Food Service Establishment Permits:** The Seller makes no representation regarding the status of certification or availability of Spokane Regional Health District or other Food Service Establishment Permits for the Property.

**Noxious Weeds:** The Seller makes no representation regarding the existence or control of noxious weeds on the Property, or compliance with the Spokane County Noxious Weed Control Program.

**Drinking Water:** The Seller makes no representation regarding compliance with the State of Washington Department of Health Office of Drinking Water Annual Water Facilities Inventory, or any other matter regarding compliance with the requirements of the State of Washington Department of Health Office of Drinking Water.

#### **Parcel Nos. 1 through 13**

**Fencing:** Any fencing situated on the Property is not necessarily an indication of the Property's boundary. Buyer should rely on the legal description of the Property contained within the title commitment prepared by LandAmerica Transnation for a description of the location of any and all Property boundaries.

**Wet Lands:** Portions of the Property are considered wetlands.

**Hazardous Substances and Phase I Environmental:** WML, the Receiver and the Auctioneer make no representation regarding the presence or absence of Hazardous Substances on or under the Property. "Hazardous Substances", as used herein means any hazardous or toxic substances, materials or wastes on or under the property in concentrations, quantities or amounts which exceed levels requiring remediation or removal pursuant to any local, state, and/or federal environmental law. The Property is selling subject to the disclosures and information contained the *Phase I Environmental Site Assessment* ("Environmental Study"), dated December 21, 2007, which was prepared by USKH of Spokane, Washington. Buyers will be purchasing the Property "AS-IS, WHERE-IS" and agrees to be solely liable for, and to indemnify and hold harmless WML, the Receiver and the Auctioneer from, any and all costs, damages, and expenses in the event that Hazardous Substances are required to be remediated or removed from the Property by any local, state or environmental law. There are no environmental liens associated with the Property. The Seller will not perform any further remediation and a Phase II environmental assessment study will not be performed. Every Bidder should read and understand the Environmental Study provided in the Sale Contract.

**Litigation and Lis Pendens:** The Property is subject to a lawsuit (the "Second Moe Suit") that was commenced by the filing of a Complaint for Declaratory Judgment to Enforce Lien (the "Complaint") on or about March 19, 2008 in the

Superior Court, State of Washington, County of Spokane in case no. 08-2-1313-2, captioned Orville Moe and Deonne Moe v. Barry Davidson, as Receiver of Washington Motorsports, Ltd., a Limited Partnership, KNAEZ Joint Venture and the Kalispel Tribe of Indians. A First Amended Complaint (the "Amended Complaint") was filed on March 26, 2008 and it did not include Orville Moe as a Plaintiff. The Complaint and Amended Complaint should be read in their entirety. In summary, the Second Moe Suit, among other matters, seeks the imposition of a paramount equitable lien on all or part of the Property, and seeks entry of an order foreclosing that lien. The Property is also subject to a Lis Pendens that was recorded with Spokane County Auditor on March 20, 2008, referencing the Second Moe Suit.

The Receiver has filed motions (the "Motions") with the Court for entry of cease and desist orders regarding the Second Moe Suit and Orville and Deonne Moes's stated objectives therein. The Motions, among other matters, seek the entry of orders directing Orville and Deonne Moe and their agents, servants, employees, attorneys, and those acting directly or indirectly in active concert or participation with them to Cease and Desist from continuing prosecution of the Second Moe Suit. The Motions also seek cancellation of the Lis Pendens, and entry of an order directing Orville and Deonne Moe and their agents, servants, employees, attorneys, and those acting directly or indirectly in active concert or participation with them to not take any actions which obstruct, interrupt, hinder, interfere with, frustrate, disturb, prevent, impede, stop or inhibit the orderly conduct of the auction of WML's property scheduled to be conducted on April 10, 2008, or any time thereafter, and authorizing any law enforcement officer to take such lawful measures as may be necessary and appropriate to enforce the provisions of this Order to permit such auction to be conducted in an orderly manner. The Motions also seek entry of an order directing Orville and Deonne Moe to not personally attend the auction, while not preventing Orville and Deonne Moe from submitting a qualified bid for the Property through an authorized agent, or from submitting a qualified bid via telephone or the Internet, should they desire to do so. A hearing on the Motions is set for April 9, 2008 at 9:00 a.m.

**Parcel No. 1 (Spokane Raceway Park)**

*Managed Sewer System:* The wastewater disposal system was built in the 1970's. The system is composed of three parallel sewer lines connecting into a single vault. Wastewater discharge flows to an elevated lagoon system which is located in the center of the road course track.

*Personal Property:* A personal property list was not provided by the Seller. Except as provided herein, no personal property, including, without limitation, mobile homes, vehicles, trailers, and equipment, shall convey with the real estate, unless otherwise agreed with the Buyer and authorized by the Court. The Seller, if authorized by the Court, may abandon and leave any personal property remaining on the premises at closing, with no liability for clean up or removal. The Seller, Receiver and Auctioneer shall have no liability whatsoever to Buyer for any subsequent claim of variance, deficiency, or defect in any the personal property that may be conveyed.

*Potable Water:* Parcel no. 1 has an 110,000 gallon elevated water tank and three smaller storage tanks which are filled from two wells located on the Property.

*Fire Protection:* Fire protection is provided during racing functions by the Airway Heights Fire Department. Presently there is no written agreement.

*Ambulance Services:* Ambulance services are provided by third parties, and on site emergency services are contracted to third parties, using the Seller's ambulance and independent emergency medical technicians.

*Racing Equipment:* Parcel 1 will convey with (1) one scoreboard, (2) a full TSI timing system with "Christmas Tree" located at the drag strip, (3) a timer with a photo cell located at the oval track, (4) existing public address system, and (5) lighting.

*Scales:* There are two scales for race car weigh-in. The first is a permanent in-ground scale that is forty years old. The scale has not been used in approximately 15 years and is in disrepair. The second scale is a five year old portable scale. The portable scale was last inspected in 2005.

**Parcel Nos. 2 through 13**

*Septic Systems:* The Seller has not performed percolation soil tests on the Property. The condition of the soil in each Parcel is unknown and Seller and Auctioneer make no representation or warranty of the quality, suitability, or usability of the soil for any purpose, or the availability of municipal sewer services.

**Parcel No. 13**

*Mining Lease and Grant of Easement:* Parcel no. 13 is selling subject to a Mining Lease and Grant of Easement with CPM Development Corporation, Spokane, WA (“CPM”) which began in 1994 and will not expire until December 31, 2010. CPM operates a hot-mix asphalt plant and aggregate pit. Use of the mining operations is limited to Parcel 13.

**Parcel No. 1 and 13**

*Ingress/Egress:* The main spectator entrance to Parcel no. 1 is via Hayford Road. The entrance to the CPM operations on Parcel no. 13 and the office facility on Parcel no. 1 is via Sprague Avenue.

The Property is selling subject to all rights of access for ingress/egress and utility services by the Buyers of Parcel nos. 1 and 13 that may be created by a specific-purpose easement following the Auction and by the time of the closing of the sales of the Property.

Should Parcel no. 1 and Parcel no. 13 sell to one or more Buyers, the route of ingress/egress and utility easements shall be exclusively from and to Sprague Avenue and shall involve no other Parcels of the Property. The Buyer of Parcel 1 shall be required to grant, or Seller shall retain, a specific-purpose easement for ingress/egress and utility services to the Buyer of Parcel 13 in order that the Buyer of Parcel 13 will have free and clear access to Sprague Avenue.

**EXHIBIT B**

**AGENCY DISCLOSURE**

Washington law RCW 18.86.030 requires all licensees to disclose in writing to all parties to whom the licensee renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing entitled "Agency Disclosure."

The LISTING BROKER is: Errold R. Sutter – Washington Broker

The LISTING BROKERAGE is: J. P. KING AUCTION COMPANY, INC.

The LISTING BROKER and the LISTING BROKERAGE are BOTH:

- AN AGENT OF THE SELLER**
- AN AGENT OF THE BUYER
- AN AGENT OF BOTH THE SELLER AND THE BUYER
- NEITHER AN AGENT FOR THE SELLER OR BUYER

THE SELLER AND ANY PROSPECTIVE BUYER(S) ACKNOWLEDGE RECEIPT OF THE PAMPHLET ENTITLED "THE LAW OF REAL ESTATE AGENCY".

ACKNOWLEDGEMENTS:

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BUYER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
DATE

J. P. King Auction Company, Inc.  
Listing Brokerage

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Margaret Segrest, WA Licensed Associate Broker

\_\_\_\_\_  
DATE

**ATTACHMENT I**

**PARCEL EXHIBIT MAP**

**[Attached]**

**ATTACHMENT II**

**TITLE COMMITMENT**

**[Attached]**

**ATTACHMENT III**

**PHASE I ENVIRONMENTAL SITE ASSESSMENT**

**[Attached]**