**Race Sponsorship Agreement.**

**RACE SPONSORSHIP AGREEMENT**

THIS AGREEMENT is entered into by and between MILLER BREWING COMPANY, a Wisconsin corporation having a principal place of business located at 3939 West Highland Boulevard, Milwaukee, Wisconsin ("Miller"), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ corporation having a principal address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Promoter").

WHEREAS, Promoter represents that it owns the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ race track and surrounding facilities (the "Race Track") which is located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

AND WHEREAS, Promoter wishes to promote, organize and run auto races and concerts at the Race Track (the races, the preparations and trials therefor, and the concerts being collectively called the "Events");

AND WHEREAS, Miller wishes to purchase certain promotional, sponsorship, advertising and other related rights with respect to the Events and the Race Track;

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, and for the mutual benefits to be derived from this Agreement, the parties hereby agree as follows:

1. Sponsorship.

Promoter warrants that it has the right to grant and hereby grants to Miller the following rights (during the term of this Agreement):

a. The exclusive sponsorship rights (for all product and service categories) for the race known as the "(name of race)" (except as provided in Paragraph l(c) below);

b. The exclusive malt beverage merchandising, promotional and advertising rights on the grounds of the Race Track throughout the Agreement term except for:

(1) concession sales where signage is kept to the minimum necessary to describe the item at the point of sale, e.g., tap signs, vendor buttons; and

(2) advertising on the vehicles driven in a race (or on related racing crew uniforms or equipment).

d. The right to prohibit any other malt beverage brand or company from running commercials during any broadcast of any Event.

2. The Races.

Promoter warrants that during the Agreement term:

a. At Promoter's expense, it will organize, promote, produce, run and perform all acts necessary for the holding of the Events at the Race Track. The Events shall at least include thirty short track type stock car races, one of which will be on (date) and be a one hundred mile race (the "(name of race)"). The Events will also include at least four music concerts (the "Concerts"). Each such Concert will consist of a professional music group acceptable to Miller that plays for at least 60 minutes. All payments or expenses connected with or arising from the Events payments or expenses connected with or arising from the Events or other activities at the Race Track shall be the responsibility of the Promoter except as otherwise specified herein. By way of specification (and not limitation), Promoter shall perform all obligations imposed under workman's compensation, unemployment compensation insurance, disability benefits, social security, and withholding tax law and union contracts. Promoter shall also pay for all Race Track related performers, site rentals, a.v. equipment, instruments, electricians, stage hands, special police, clean-up personnel, ushers, tickets, ticket sellers, ticket takers, box office employees, truck loaders and unloaders, licenses, taxes, advertising and publicity services of every type required, lights, microphones, and prop equipment.

b. The date and time of each event shall be communicated to a designated Miller representative with a reasonable amount of lead time so that Miller has the opportunity to capitalize on promoting and merchandising the Events.

c. All activities at the Race Track will be produced in a first-class manner in accordance with the prevailing professional, ethical, and business standards, with the utmost regard for safety of all persons, property, the environment and Miller's goodwill.

d. Promoter will provide Miller with exclusive use (throughout the Agreement term) of the permanent signage locations set forth on Exhibit A attached hereto. Promoter will maintain and protect Miller's signage at these locations.

e. Miller will also have the right to erect a giant Miller inflatable in the infield near the main stands during the entire day for each Event at the Race Track.

f. Miller shall have the right to place a free full color, full page ad in the official Event program for all Events. Further, a Miller brand logo specified by Miller shall prominently appear on the front of each program for the (name of race) and the Concerts.

g. Promoter shall provide Miller with the following free admission:

(1) A minimum of 300 general admission tickets at no cost to Miller, for the (name of race);

(2) A minimum of 20 best position tickets, at no cost to Miller, for all activities at the Race Track.

h. Promoter shall also provide Miller with a hospitality tower area (capacity at least 65) for the (name of race)

3. Additional Rights.

Promoter warrants that Miller is hereby granted the following additional rights during the Agreement term:

a. All Concerts will be named, designated, and referred to as "Miller Genuine Draft Presents \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (artist)", or by such other similar Miller identified designations as may be agreed to by Miller and Promoter, in all Promoter authorized advertising for the Concerts (e.g., newspapers, radio, television, printed materials, and promotional activities). Similarly, the (name of race) will be named, designated, and referred to as the "(name of race) ", or by such other similar Miller identified designations as may be agreed to by Miller and Promoter, in all Promoter authorized advertising for the (name of race).

b. Promoter will prevent any manufacturer, distributor or retailer of a malt beverage product (except Miller) from promoting its product(s) at the Race Track or in connection with the Event, except as provided in Paragraph 1 (c).

c. The right to take, use, reproduce and edit, for any purpose whatsoever, photographs and sketches (and, for internal purposes only, videotapes and motion pictures) of the Events (and/or portions thereof), and/or participants participating in the Events. Promoter will use its best efforts to obtain consents from all Event participants (including pit crews), in a form approved by Miller, allowing such use.

d. To hold such press conferences, banquets, parties and other off-track promotions in conjunction with the Events as Miller wishes.

e. Where lawful, Miller may distribute free samples of Miller's products and/or promotional items to audience and participants at the Events.

f. To use and refer to Promoter's Trade Designations (e.g., "(name of race track)" in connection with the sale and/or promotion of Miller's products in or on any media (such as television, radio, print, sculpture, clothing and packaging).

g. To publicize and promote the Events in conjunction with any or all of Miller's malt beverage products. In this regard, Miller may state that Miller High Life and/or Miller Genuine Draft are the official beers of the Race Track.

h. Promoter shall deliver Miller promotional announcements acceptable to Miller over the Race Track p.a. system at least fifteen times during the (name of race) and at least three times during all other Events at the Race Track.

i. Promoter will display Miller specified promotional messages during each Event on the Race Track electronic message board for at least three minutes per Event.

j. Miller will have the right of first refusal (but no obligation) to obtain the exclusive sponsorship of the Oxford 250 for (enter year) if the Dodge dealers decide not to sponsor it. Miller will have twenty days to exercise this right (if offered), or it shall have waived such right for such offer.

4. Miller's Identifying Symbols.

It is understood that Promoter (and others that it works with in connection with the Events) may be using some symbols and marks owned by Miller in connection with promoting the Events. Promoter shall obtain Miller's permission prior to use, and Promoter shall undertake to comply with all laws use, and Promoter shall undertake to comply with all laws pertaining to trademarks in force in order to preserve Miller's ownership rights with respect to said symbols and marks. Promoter acknowledges that the use of any Miller symbol or other identifying mark by it or others shall be for Miller's benefit, shall not create any right in it with respect to such symbols or marks, and shall terminate at the end of this Agreement.

5. Miller's Obligations.

For the rights granted to Miller hereunder during the Agreement term, Miller agrees to pay Promoter \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($\_\_\_\_\_), which amount shall be payable by check to Promoter at its address designated above (the "Contract Fee"). Payment of the Contract Fee shall be made in two installments as follows:

a. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($\_\_\_\_\_) to be paid on or before ten days after execution of this Agreement; and

b. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($\_\_\_\_\_) to be paid on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In no event shall Miller be held liable for lost profits, consequential damages, or other sums over and above the above-described fees, regardless of the success, failure, or amount of its promotional activities. However, Miller also agrees to reimburse Promoter for the cost of painting the Exhibit "A" billboards with Miller advertising in accordance with Miller's instructions (which Promoter agrees to do by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 19\_\_\_\_\_); provided that such reimbursement shall not exceed $\_\_\_\_\_ in total and shall be paid by the later of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 19\_\_\_\_\_ or fifteen days after Miller's receipt of Promoter's invoice with supporting documents showing that the signage has been painted and the painter have been paid in full. Payment of the sums hereunder, and such amounts shall be deemed to include all applicable taxes, duties and charges.

6. General Warranties.

Promoter warrants that:

a. The execution of this Agreement by Promoter had been duly authorized and approved by the appropriate officers of Promoter, and Promoter has full power and authority to enter this Agreement and grant the rights described herein and the performance of promoters; obligations hereunder shall not result in any breach of any term or provision of, or constitute a default under, any indenture, contract or agreement to which Promoter is a party.

b. Promoter is a corporation organized under the laws of its state of incorporation and is in good standing under such laws.

c. Promoter will comply with all applicable federal, state and local laws, executive regulations, and orders in carrying out its obligations under this Agreement, and it will remain an organization of good reputation.

d. There are no pending or threatened lawsuits, proceedings, claims, governmental actions or investigations which could in any material way adversely affect the performance of Promoter hereunder or reduce the value of the rights granted to Miller.

e. During the Agreement term, Promoter will undertake all activities necessary to ensure the fullest possible benefit described herein.

f. Miller's use of the Trade Designations "(name of race track) ", or Miller's use of the names and likenesses of the professional talent scheduled to appear at the Events, in connection with promoting its rights hereunder, will not infringe upon any patent, trademark, copyright or interest of a third party. Promoter will obtain suitable releases from the talent to effectuate the purposes of this subparagraph.

g. Promoter will obtain release (in a form acceptable to Miller) for personal injury, property damage, and/or death from each participant in all vehicle races at the Race Track (including pit crew members).

h. Nothing that entertainers, say or do at the Concerts shall derogate Miller or its products.

i. Promoter does not have any interest in any license to sell alcoholic beverages which would make this Agreement or Miller's exercise of its rights hereunder unlawful.

Miller may at any time, and from time to time, waive in whole or part any of Promoter's obligations hereunder by providing Promoter with written notice of such waiver. In such event, Promoter warrants that Promoter and those it contracts with will not undertake or continue with the waived obligation until Miller notifies Promoter to the contrary.

7. Term; Right of First Refusal.

This Agreement shall commence upon execution and will remain in full force and effect until \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ unless terminated earlier as provided below. No offer for malt beverage sponsorship, promotional, or advertising rights shall be made by promoter to a third party for (enter year) Race Track related rights (except for Paragraph 1(c) type activity) which is more favorable to the third party in any respect than is first offered to Miller. Miller must notify Promoter in writing within twenty days of its desire to accept such offer (if it wishes to do so), or it shall have waived such right of first refusal with respect to that offer.

8. Termination.

This Agreement shall terminate at the end of the initial term, except that Miller may terminate this Agreement earlier upon Promoter's receipt of Miller's written notice of its intention to terminate (without a further notice period) under any of the following conditions:

a. Where lawful, if Promoter makes a general assignment for the benefit of creditors, shall have been adjudicated bankrupt, shall have filed a voluntary petition for bankruptcy or for reorganization, or effectuated a plan or similar arrangement with creditors, shall have filed an answer to a creditor's petition, or a petition is filed against Promoter for an adjudication in bankruptcy or reorganization which is not dismissed within sixty days, or a receiver or trustee or custodian is appointed for any of Promoter's property or assets;

b. Promoter is insolent (is unable to pay its debts when due or has a negative net worth, tangible assets minus liabilities);

c. If there is a default by Promoter under any provision of this Agreement, and Promoter fails to completely cure the default within fifteen days after being given written notice by Miller; and/or

d. If Miller is prohibited by law, regulation or order from engaging in or utilizing any of the activities or rights described in this Agreement.

Such a termination shall be without prejudice to any other rights or remedies Miller may have.

9. Indemnification.

Both during and after this Agreement, Promoter agrees to protect, indemnify, and hold Miller and its officers, directors, agents, distributors, employees, suppliers, customers, successors and assigns, harmless from and against any all expenses, damages, claims, suits, losses, actions, judgments, liabilities and costs whatsoever (including attorney fees) arising out of, connected with, or resulting from:

a. Any claims by anyone that they have not been properly paid for services or materials rendered in connection with an activity at the Race Track, or that they have not received the performance at the Race Track they paid for.

b. Any claims or actions for personal injury, death, property damage or other harm or loss suffered by participants, spectators, land owners, site owners or lessors (or their relatives) or others as a result of activities at the Race Track.

c. Any claim for taxes due as a result of activities at the Race Track.

d. Any claims for infringement upon any patent, trademark, copyright, trade name, right of publicity or other proprietary right or interest of a third party relating to activities at the Race Track or the promotional thereof.

e. Any claims which fall within the coverage of the insurance required by Paragraph 10(a) of this Agreement.

f. Any breach by Promoter of its obligations or warranties.

10. Insurance.

Promoter shall, at its own expense, secure and maintain in full force and effect during the term of this Agreement, at least the following insurance coverage:

a. A general comprehensive liability policy from a carrier acceptable to Miller (which policy shall have a form and content acceptable to Miller) in an amount not less than $\_\_\_\_\_ for personal injury, death, property damage and other related harm suffered by participants, spectators, and others who may be adversely affected by activities at the Race Track (or their relatives as a result thereof); and

b. Worker's compensation coverage and employer's liability insurance as required by law, but not less than in the amount of Five Hundred Thousand Dollars ($500,000.00). Promoter shall provide Miller (Attention: Corporate Banking and Insurance) with Certificates of Insurance, evidencing the existence of these insurance policies and naming Miller and its parent corporation as additional insureds within ten days after execution of this Agreement.

11. Nature of the Sponsorship.

It is mutually agreed that the sponsorship herein is special, unique, and extraordinary in nature, and of a substantial value to Miller. In the event of a breach of this Agreement by Promoter, Miller shall be entitled, in addition to any other remedies available to it, to obtain equitable relief by way of injunction or otherwise in order to preserve its exclusivity.

12. Independent Contractor; Control of Events.

Promoter is an independent contractor (and not a joint venturer) with respect to Miller, and neither party has the authority or right to incur obligations of any kind in the name of or for the account of the other or to commit or bind the other to any contract (other than this Agreement). It is recognized that Miller's sponsorship provides it with the advertising and promotional rights set forth herein, and Miller shall have no right to interfere with the policies and procedures for the holding and conduct of activities at the Race Track. Miller shall not be liable for any claims, demands, judgments or actions for personal loss, injury, death, property damage, or otherwise, suffered by participants, spectators, or others relating to activities at the Race Track or the Race Track.

13. Audits; Retention and Inspection of Records.

Promoter shall maintain records of all contracts, papers, correspondence, proof of payment, affidavits of performance, ledgers, books, accounts and other information relating to the payments made by Miller or Promoter for the services hereunder. Miller or its designees may inspect, examine, and review such records (and make copies thereof) at any time and from time to time during normal business hours (during the Agreement term and for six months thereafter).

14. Notices.

Any notices to be furnished hereunder shall be in writing and shall be deemed given when deposited in the United States mail, addressed to the other party's address as herein indicated, if sent by certified or registered mail, postage prepaid in full, or if sent in this manner addressed to such other address as the notified party shall have previously given in writing to the other party; provided that a copy of all future notices to Miller must be sent to Miller's Legal Department (at the same address as Miller) in order for the notice to be binding on Miller.

15. Entire Agreement.

This Agreement sets forth the final and complete understanding of the parties with respect to this subject matter. It is understood and agreed that there are no other representations with respect to this Agreement and this Agreement supersedes all prior discussions, agreements and undertaking relating to the subject matter hereof. It is further agreed that the rights, interest, understanding, agreements and obligations of the respective parties pertaining to the subject matter of this Agreement may not be amended, modified or supplemented in any respect except by a subsequent written instrument evidencing the express written consent of each of the parties duly executed by the parties and in the case of Miller, the signature of a corporate officer is required to effectuate the change. Any terms inconsistent with or additional to the terms set forth in the Agreement which may be included with a purchase order, acknowledgement, invoice, etc., of either party shall not be binding on the other party hereto.

16. Waiver.

No claim or right arising out of the breach of this Agreement may be discharged in whole or part any waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

17. Severability.

If this Agreement or any of its provisions or the performance of any provision, is found to be illegal or unenforceable under the law now or hereafter in effect, then the parties shall be excused from the performance of such portions of this Agreement as shall be found to be illegal or unenforceable under the applicable laws or regulations, without affecting the validity of the remaining provisions of the Agreement.

18. Governing Law.

This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Wisconsin.

19. Assignability.

This Agreement shall not be assignable by Promoter. However, Miller may assign its rights to any successor to its business.

20. Nature of Agreement.

The parties hereto understand and agree that this Agreement is solely for the purchase of advertising and promotional rights, and nothing contained in this Agreement or the negotiations preceding it prevents, deters, hinders or restricts in any way the rights of Promoter, its affiliated companies, concessionaires, retailers and/or any other persons from purchasing or not purchasing any brand or brands of malt beverage which they choose to.

IN WITNESS WHEREOF, the undersigned parties have dully executed this Agreement in a manner appropriate to each.

|  |  |
| --- | --- |
|  | MILLER BREWING COMPANY |
| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Attest:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Attest:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

EXHIBIT "A"

Attach photos showing positions of:

A. 16' x 32' billboard

B. 2 -- 8' x 8' billboards

C. Message Board

D. Marquee Board (main access road near Race Track)