

CO-PROMOTION AGREEMENT

AMERICAN FLAT TRACK

THIS CO-PROMOTION AGREEMENT (THE “AGREEMENT”), ENTERED INTO BY AND BETWEEN AFT EVENTS, LLC. (“AFTE”) AND THE CITY OF STURGIS (“TRACK”) CONSTITUTES AN AGREEMENT WHEREBY AFTE AND TRACK WILL JOINTLY CONDUCT AND PROMOTE THE AMERICAN FLAT TRACK SERIES EVENT SET FORTH BELOW DURING THE TERM.

Track Name (“Facility”): Streets of Downtown Sturgis, South Dakota

City Address: Sturgis City Hall, 1040 Harley-Davidson Way, Suite 103

City/State/ZIP Sturgis, South Dakota 57785

Website:

Race(s): Sprit of Sturgis TT

Dates: The final Sunday of the annual Sturgis Motorcycle Rally (for 2024 Sunday, August 11, 2024) from 2024 through 2028

WHEREAS Daytona Motorsports Group, LLC (“DMG”) licenses, sanctions and conducts, among other things, motorcycle racing events throughout the United States and the world, including, among others, the American Flat Track Series.

WHEREAS AFTE is in the business of promoting motorcycle races.

WHEREAS The City hosts the world class Sturgis Motorcycle Rally each year and desires to host AFTE an American Flat Track Series race each year during the Term.

WHEREAS, AFTE and the City desire to co-promote the Event each year of the Term by developing a temporary street course on the streets of Sturgis.

WHEREAS, DMG has agreed to sanction the Event at the Facility for 2024 pursuant to a sanction agreement between DMG and AFTE (“Sanction Agreement”).

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the parties agree with each of the terms and conditions set forth herein.

Definitions

- a) “AFTE Marks” shall mean all names, seals, trademarks, service marks, logos, and/or symbols of the Series and AFTE as set forth on Exhibit B.
- b) “Ancillary Events” or “Activities” includes, but is not limited to, private or public racecar practices, other motors sports events, thrill shows, live performances, and/or fireworks.
- c) “Broadcast Rights” shall mean all rights to engage in any Broadcast and directly related broadcast activity (for example, live streaming, tape-delayed broadcasts, single re-broadcasts and support programming).

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- d) "Competition" shall mean the portion of the Event during which the actual racing competition and all competitive activity related thereto occurs, including, but not limited to, registration, inspections, time trials, practice runs, actual race(s), post-race inspections, on the dates set forth in the Sanction Agreement.
- e) "Event" shall mean the Race(s) set forth in the preamble plus the 48 hours before the start and 24 hours after completion of the race.
- f) "Event Budget" shall mean the sum paid by the City to AFTE for AFTE's services herein (including securing a sanction from DMG). The 2024 Event Budget is set forth on Exhibit A, including the timing of such payments due by the City. For years 2025 through 2028, the Event Budget shall be determined by the City and AFTE working in good faith based on substantially similar performance and services as previous years.
- g) "Force Majeure Event" shall mean any event that causes performance under this Agreement impossible, including without limitation, weather, acts of God, acts or omissions of civil or military authority, any rule, regulation or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof, fires, floods, epidemics, pandemics, war, acts of terrorism, embargo, riots or national company strikes or lockouts.
- h) "Rule Book" shall mean the Membership Guide and Rules published by DMG, and any amendments thereto and other special rules published by DMG specifically for the Event.
- i) "Sturgis Marks" shall mean all names, seals, trademarks, service marks, logos, and/or symbols of the Sturgis Motorcycle Rally, the City, its subsidiaries, or its affiliates as set forth on Exhibit C.
- j) "Term" shall have the meaning set forth in Section 2.

Terms and Conditions

1. **Co-Promotion.** So long as the Agreement is in effect and not terminated, AFTE and City shall perform their obligations set forth herein to promote the Events.
2. **Term.** The Term of this Agreement shall begin on the Effective Date and shall run through the conclusion of the Event in 2028.
3. **Conduct and Control over Competition.** City and AFTE acknowledge that the Sanction Agreement and the DMG Rule Book controls the Event competition.
4. **Compliance with Laws.** AFTE and City shall comply with all local, state, and federal laws and regulations applicable to its obligations therein.
5. **Financial Consideration.**
 - a) **Event Budget.** The City agrees to pay AFTE the amount set forth in the Event Budget each year of the Term.
 - b) **Event Revenue.** The City shall retain all revenue it generates for the Event (if any) including ticket sales, hospitality, parking, and camping.
 - c) **Sponsorship.**
 1. AFTE shall use good faith efforts to assist the City in securing sponsorship sales for the Event. The City acknowledges that per the Sanction Agreement, such sponsors are subject to the prior written approval of the Event sanctioning body. The City shall provide AFTE a 20% commission off of gross revenues received by the City for any Event sponsorships.
 2. The City acknowledges that any season long Series sponsor will have Event presence and DMG shall retain all sponsorship revenue therefrom.

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6. **Event Schedule.** AFTE acknowledges that the Event is held during the Sturgis motorcycle rally and on public roads. The City will provide AFTE access to the streets and facilities pursuant to a mutually agreed upon schedule and AFTE shall set up and tear down the racetrack in accordance therewith.
7. **Postponement or Cancellation; Ticket Refund Policy.**
 - a) *Postponement or Cancellation of Events.* The City and AFTE shall consult regarding postponement of the Event, provided however the Sanction Agreement determines any cancellation or postponement. The parties will mutually agree upon the selection of the postponed date if applicable.
 - b) *Ticket Refund.* If the Event is cancelled or postponed and cannot be rescheduled in accordance with the terms hereof, the City shall be responsible for any ticket or sponsorship refunds.
8. **City Event Obligations.** The City shall perform or provide the following to the levels required by the Sanction Agreement or applicable law:
 - a) Project briefing & Established Goals
 - b) Creative feedback and approvals
 - c) Stakeholder navigation and support
 - d) Event Budget resourcing
 - e) Insights and information sharing
 - f) Access to existing media channel
 - g) Utilize City resources where possible
9. **AFTE Event Obligations.** AFTE shall perform or provide the following to the levels required by the Sanction Agreement or applicable law. AFTE will engage Outerkind, LLC to assist in performing such services.
 - a) Timeline navigation and accountability
 - b) Creative development & Branding
 - c) Content creation
 - d) Experience and aesthetic production design
 - e) Resource Coordination
 - f) Sponsorship Negotiations Support
 - g) Technology and tool(s) integration
 - h) Provision of course barriers
 - i) Course build
 - j) Race and event operations
 - k) Sanctioning Body
 - l) Onsite Safety Plan
 - m) Rider Selection
 - n) Media Production
 - o) Technical, power and system needs
 - p) Budget management and accountability
 - q) Secure Event sanction agreement
 - r) General liability insurance policy for Event
10. **Event Sponsors and Merchandise.**
 - a) *Event Logo.* The City and AFTE shall mutually agree on the Event logo. The City and AFTE shall jointly own all right, title and interest in the Event logo (provided however that any of a party's individual marks included in the Event logo shall remain owned by such party). Each party agrees to

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cease and desist use of the Event logo after expiration of the Term. Neither party shall register the Event logo with the Patent and Trademark Office without the other party's written consent.

- b) AFTE shall be provided a suitable space for display and sale of series merchandise. The parties will work together in good faith to create, license and sell Event merchandise.
11. **Fitness of Facility.** The City will be responsible for all repair to the facility and track arising out of the Event except that damages directly caused by the negligence of AFTE.
12. **Advertising; Use of Marks.**
- a) The City and AFTE acknowledge that the promotions and advertising relating to the Event shall be subject to the mutual agreement. The City and AFTE will make no misrepresentations of fact in connection with the promotion and advertising of the Event. If such misrepresentation is made, Track and AFTE agree to promptly correct any misrepresentation.
 - b) The City licenses AFTE to use, on a revocable, non-transferable, non-exclusive and royalty free basis, during the Term, the Sturgis Marks in advertising, promoting and sponsorship relating to the Event. Each use is subject to the prior review and written consent of the City, which shall not be unreasonably withheld. This limited license does not authorize AFTE to use the Sturgis Marks in its corporate business or firm name and title, to use or permit the use of the Sturgis Marks other than in accordance with the terms and conditions of this Agreement.
 - c) AFTE licenses the City to use, on a revocable, non-transferable, non-exclusive and royalty free basis, during the Term, in advertising, promoting and sponsorship relating to the Event. Each use is subject to the prior review and written consent of AFTE, which shall not be unreasonably withheld. This limited license does not authorize the City to use the AFTE Marks in its corporate business or firm name and title, to use or permit the use of the AFTE Marks other than in accordance with the terms and conditions of this Agreement.
13. **Media Rights.** Each party agrees to comply with the Sanction Agreement as it relates to media rights and limitations for the commercial exploitation of the Event. Notwithstanding the foregoing, to the extent allowed by the Sanction Agreement each party may capture images, video or otherwise from the Event on its own and promote its activities therefrom.
14. **ADA Compliance.** The City represents and warrants that the area where the Facility will be setup is compliant with the Americans with Disabilities Act and any analogous state or local laws related to disability access. Track will defend, indemnify, and hold AFTE, DMG, their subsidiaries, affiliates directors, officers, shareholders, employees, members and agents harmless from and against any and all damage, liabilities, costs, and expenses (including but not limited to reasonable attorneys fees) incurred by or imposed upon AFTE in connection with or arising out of any claim, action, suit, proceeding, or appeal therein (such expenses to include the cost of reasonable settlement made with a view to curtailment of costs of litigation) in which it has been determined or alleged that the Facility violated such disability laws except such claims alleging the design of the racetrack itself was the cause of such violation.
15. **Indemnification.**
- A. AFTE agrees to indemnify, hold harmless and defend the City, its subsidiaries and its respective directors, officers, shareholders, agents, employees, and agents from and against any and all damage, loss, liability, cost or expense (including reasonable attorneys' fees) arising out of (a) any breach by AFTE of any provision of this Agreement; or (b) death or bodily injury to any person or destruction or damage to any property to the extent such death, injury, destruction or damage was caused by the negligent or willful act or omission or violation of law by AFTE or its employees or agents.

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- B. The City agrees to indemnify, hold harmless and defend AFTE and the Insured Parties from and against any and all damage, loss, liability, cost or expense (including reasonable attorneys' fees) arising out of (a) any breach by Track of any provision of this Agreement; or (b) death or bodily injury to any person or destruction or damage to any property to the extent such death, injury, destruction or damage was caused by the negligent or willful act or omission of Track or its employees or agents.
16. **Notices.** All written notices, offers, requests, demands, and other communications pursuant to this Agreement shall be given by personal delivery, by prepaid first class registered or certified mail properly addressed with appropriate postage paid thereon, or facsimile transmission, and shall be deemed to be duly given and received on the date of delivery if delivered personally or via a secured carrier (i.e., Federal Express or United Parcel Service), the third day after postmarked in the United States Mail if mailed, or upon confirmed receipt of electronic transmission. Notices shall be sent to the parties at the addresses on the first page of this Agreement or to such other address as any party may have furnished to the others in writing in accordance herewith, except that notices of change of address shall only be effective upon receipt.
17. **Miscellaneous.**
- a) City and AFTE's rights and obligations under this Agreement are not transferable or assignable. This Agreement represents the entire understanding between the parties with respect to the subject matter contained herein and supersedes all other negotiations, agreements, representations, and covenants (oral or written) and any other agreement executed by the parties in connection herewith.
 - b) This Agreement may not be modified except by a written instrument signed by the parties. Failure by a party to enforce any of their respective rights under this Agreement shall not be construed as waiver of such rights. Any waiver, including waiver of default, in any one instance shall not constitute a continuing waiver or a waiver in any other instance.
 - c) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Each party irrevocably submits to the exclusive jurisdiction of the state or and federal courts in and for Volusia County, Florida for the adjudication of any suit, action or proceeding brought by a party hereunder or in connection herewith.
 - d) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. City and AFTE hereby agree that execution of this Agreement via facsimile shall be deemed an original and shall be legally binding only upon the execution by both City and AFTE.
 - e) Nothing in this Agreement is intended by the parties hereto to create a fiduciary relationship between them, nor any joint venture or other similar business arrangement. It is understood and agreed that City and AFTE are independent contractors and are in no way authorized to make any contract, warranty, or representation or to create any obligation on behalf of the other party.
 - f) In the event that any term or condition of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held invalid, illegal or unenforceable, had never been contained herein. The rights and obligations in this Agreement shall bind, and inure to the benefit of, the parties and their respective successors and permitted assigns.

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IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement on the date set forth below.

Executed this ____ day of _____, 2024 (“Effective Date”).

AFTE

By: _____

Title: _____

The City of Sturgis

By: _____

Title: _____

EXHIBIT A

2024 Event Budget

1. \$653,962.43 which for 2024 includes the provision by AFTE (or DMG) of all necessary retaining walls, fencing and inflatable safety barriers, which shall be installed and removed by AMA Pro in close consultation with the City.
2. The cost associated with the necessary retaining walls, fencing and inflatable safety barriers shall be due and payable within 30 days of a receipt of invoice by AFTE (which shall not be issued until AFTE has purchased such materials).
3. AFTE shall own all the retaining walls, fencing and inflatable safety barriers purchased pursuant to this Agreement and may use them for any such purposes in addition to the obligations set forth herein.
4. The remaining balance of the Event Budget shall be paid out in equal monthly installments with the final payment due and payable on January 31, 2025.

EXHIBIT B

AFTE Marks

EXHIBIT C

Sturgis Marks

THE RIDE. THE ROAR. THE RALLY., Registration No. 6867322, International Class 035 and 041

THE RIDE. THE ROAR. *THE RALLY.*[®]

“S” DESIGN Logo, Registration No. 6867323, International Class 035 and 041



Seal Lockup” Logo, Registration No. 7116020, International Class 035 and 041



Brand Lockup” Logo, Registration No. 7116021, International Class 035 and 041



City of Sturgis 84th, 85th, 86th, 87th, and 88th Rally Logos, as adopted by the City of Sturgis

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