

## ESCROW AGREEMENT

This escrow agreement (“**Agreement**”) is made as of the Effective Date by Center Point Management, LLC, a Wyoming limited liability company; Bonneville Salt Lake Raceway, LLC, a Utah limited liability company; Andrew Cartwright, an individual; and Mark Bensen, an individual (collectively, “**Recipients**”) and Tooele County, a political subdivision of the State of Utah; and the Redevelopment Agency of Tooele County, a community reinvestment agency organized by the County and functioning under Title 17C of the Utah Code (collectively, “**Payors**”).

WHEREAS, the Recipients and Payors are parties to that Settlement Agreement between them dated 2/ November 2017 (“**Settlement Agreement**”); and

WHEREAS, the Parties wish to establish and maintain this escrow in accordance with the terms and provisions of this Agreement;

NOW, THEREFORE, the Parties agree:

1. **Purpose.** This Agreement provides for the escrow of \$1,550,000.00 under the Settlement Agreement, as the funding for the payment described in Paragraph 2 of that Settlement Agreement. Subject to the terms of this Agreement, the Parties establish this escrow to ensure the Recipients’ and the Payors’ compliance with the terms, provisions, and conditions of their escrow agreement under the terms of the Settlement Agreement.

2. **Definitions.** As used herein, the following terms have the following meanings:
- a. “**Agreement**” has the meaning set forth in the preamble.
  - b. “**Effective Date**” is the date the last signatory executes this Agreement.
  - c. “**Escrow Agent**” is Goebel Anderson PC.
  - d. “**Escrow Fund**” has the meaning set forth in Paragraph 3 of this Agreement.
  - e. “**Parties**” is the plural of Party as used in this Agreement and, unless otherwise stated, includes every Party.
  - f. “**Party**” means a signatory to this Agreement.
  - g. “**Payors**” has the meaning set forth in the preamble.
  - h. “**Recipients**” has the meaning set forth in the preamble.

i. “**Settlement Agreement**” has the meaning set forth in the recitals.

3. **Establishment of Escrow Fund.** Payors have, as of this Agreement’s Effective Date, deposited with the Escrow Agent the sum of \$1,550,000.00. This shall constitute and be referred to as the “**Escrow Fund.**”

4. **Receipt.** The Escrow Agent shall issue appropriate written acknowledgements of the receipt of the Escrow Fund.

5. **Disposition of the Escrow Fund.**

a. *Release.* The Escrow Agent shall hold the Escrow Fund and shall release such funds in accordance with the terms and conditions set forth in Subparagraphs 2(c) and 2(d) of the Settlement Agreement.

b. *Disputed Claims to Escrow Fund.* If, during the term of this Agreement, the Parties, or any of them in any combination or alone, make a claim that complies with the notice provisions of this Agreement to the Escrow Fund or any portion thereof, and that claim is timely disputed in the same manner, the Escrow Agent shall not release the disputed portion of the Escrow Fund, but shall instead continue to hold that disputed portion until either (1) presented with an order from a court of competent jurisdiction determining the disposition of the disputed portion of the Escrow Fund under the terms, conditions, and provisions of the Settlement Agreement, which is incorporated in this Agreement by this reference, or (2) presented with written instructions disposing of the disputed portion of the Escrow Fund signed by all Parties to this Agreement. The Escrow Agent shall be fully protected in so acting or refraining from acting under these circumstances.

6. **Investment of Escrow Fund.** The Escrow Agent shall deposit the Escrow Fund in an interest bearing trust account with Washington Federal, N.A. During the term of the escrow all interest and/or other increments to the Escrow Fund shall be credited to the Recipients.

7. **Written Instructions to Escrow Agent.** Notwithstanding anything herein to the contrary, the Escrow Agent may act upon any written instructions given by the Parties jointly and signed by all.

8. **Status of the Escrow Agent.**

a. *Depository Only.* The Escrow Agent is to be considered and regarded as a depository only, and shall not be responsible or liable (except for its failure to exercise due care) for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited as part of the Escrow Fund, nor as to the identity, authority, or rights of any person executing the same. The Escrow Agent’s duties hereunder shall be limited to the safekeeping and investment of money received by it as Escrow Agent and for its disbursement in accordance with the terms, provisions, and conditions of this Agreement.

b. *May Rely on Signatures in Good Faith.* The Escrow Agent shall not be responsible for the genuineness of any certificate or signature and may rely conclusively upon and shall be protected when acting upon any notice, affidavit, request, consent, instruction, check, or other instrument believed by the Escrow Agent in good faith to be genuine or to be signed or presented by the proper person, or duly authorized, or properly made. The Escrow Agent shall have no responsibility except for the performance of the Escrow Agent's express duties under this Agreement and no additional duties shall be inferred or implied.

c. *Liability Limited.* The Escrow Agent shall not be responsible or liable for any act or omission in the performance of the duties of the Escrow Agent under this Agreement unless such act or omission constitutes bad faith, gross negligence, or fraud.

d. *No Duty to Enforce or Defend.* The Escrow Agent shall not be required to institute or defend any action involving any matters referred to in this Agreement or which affect the Escrow Agent or the duties or liabilities of the Escrow Agent under this Agreement.

e. *Escrow Agent's Role as Attorney for Party.* The Parties recognize that the Escrow Agent is an attorney for Tooele County in the dispute underlying the Settlement Agreement, and hereby waive any objection to it acting as the Escrow Agent under this Agreement. The Parties understand and agree that the Escrow Agent will act independently of its duties as attorney to Tooele County under this Agreement.

9. **Fees and Costs of Escrow Agent and Escrow Fund.** Tooele County shall be liable for the fees of the Escrow Agent and any costs associated with the Escrow Fund, neither of which shall be chargeable against the Escrow Fund.

10. **Non-waiver.** No delay or failure by any Party to exercise any right hereunder, and no partial or single exercise of any such right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

11. **Time of Essence.** Time is of essence for this Agreement.

12. **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if sent by email or delivered by hand or by overnight express mail (e.g., Federal Express) as follows:

a. If to the Payors, to:

Scott Broadhead  
TOOELE COUNTY ATTORNEY  
74 South 100 East, Suite 26

Tooele, Utah 84074  
sbroadhead@tooeleco.org

b. If to the Recipients, to:

J. Martin Tate  
CARMAN LEHNHOF ISRAELSEN LLP  
299 S. Main Street, Suite 1300  
Salt Lake City, Utah 84111-2241  
mtate@clilaw.com

c. If to the Escrow Agent, to:

Barton H. Kunz II  
GOEBEL ANDERSON PC  
405 South Main Street, Suite 200  
Salt Lake City, Utah 84111  
bkunz@gapclaw.com

Any Party may change its own contact information under this Paragraph by notice duly given as provided herein.

13. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided that any permitted assignment of any Party's obligations or liabilities shall not relieve that Party of any of its liabilities or obligations under this Agreement.

14. **Captions.** The captions are for convenience or reference and shall not be deemed to modify or affect the interpretation of this Agreement. The term "herein" as used in this Agreement refers to this Agreement.

15. **Modification.** Neither this Agreement nor any of its provisions shall be modified, changed, discharged, or terminated except by an instrument in writing signed by every Party.

16. **Further Assurances.** In connection with the transactions contemplated by this Agreement, the Parties agree to execute any additional documents and papers and to perform and do any additional acts and things as may be reasonably necessary and proper to effectuate and carry out the transactions contemplated by this Agreement.

17. **Governing Law.** This Agreement is governed by, and construed and interpreted according to, the laws of the State of Utah and the Settlement Agreement.

18. **Authority.** Each incorporated or otherwise organized Party hereby represents that it is duly organized, validly existing, and in good standing under the laws of the state of its

incorporation or other organization. Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any electronic facsimile of any signature transmitted shall be deemed an original and shall bind each Party.

EXECUTED this 21 day of November, 2017.

TOOELE COUNTY

By: Wade B. Bitner  
Name: WADE B. BITNER  
Title: COMMISSION CHAIRMAN

EXECUTED this 21 day of November, 2017.

REDEVELOPMENT AGENCY OF TOOELE COUNTY

By: Sharon Milne  
Name: Sharon Milne  
Title: Chairman of the Board, RDA

EXECUTED this 8th day of November, 2017.

CENTER POINT MANAGEMENT, LLC

DocuSigned by:  
By: Andrew Cartwright  
Name: Andrew Cartwright  
Title: Manager

EXECUTED this 8th day of November, 2017.

BONNEVILLE SALT LAKE RACEWAY, LLC

DocuSigned by:  
By: Andrew Cartwright  
Name: Andrew Cartwright  
Title: Manager

EXECUTED this 8th day of November, 2017.

DocuSigned by:  
Andrew Cartwright  
Andrew Cartwright

EXECUTED this 8th day of November, 2017.

DocuSigned by:  
Mark Bensen  
Mark Bensen

EXECUTED this 21 day of November, 2017.

GOEBEL ANDERSON PC

By: Barton H. Kunz II  
Name: BARTON H. KUNZ II  
Title: PARTNER