

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 3, 2023

Motorsport Games Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39868
(Commission
File Number)

86-1791356
(I.R.S. Employer
Identification No.)

5972 NE 4th Avenue
Miami, FL
(Address of principal executive offices)

33137
(Zip Code)

Registrant's telephone number, including area code: **(305) 507-8799**

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, \$0.0001 par value per share	MSGM	The Nasdaq Stock Market LLC (The Nasdaq Capital Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry Into a Material Definitive Agreement

Part I.

On October 3, 2023, Motorsport Games Inc. (the “Company”) entered into an Assignment and Assumption Agreement (the “Assignment”) among the Company, 704GAMES LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation) and a wholly owned subsidiary of the Company (“704”), and iRacing.com Motorsport Simulations, LLC (“iRacing”).

Pursuant to the Assignment, 704 sold and assigned to iRacing and iRacing acquired and assumed from 704 that certain Second Amended and Restated Distribution and License Agreement by and between 704Games LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation), a wholly owned subsidiary of the Stockholder, and NASCAR Team Properties, a series trust organized under the laws of Delaware (“NASCAR”), effective as of January 1, 2019, as amended (the “NASCAR License”) and all liabilities that accrue under the NASCAR License following the date of the Assignment (the “Assumed Liabilities”). iRacing did not assume any liabilities of 704 or its affiliates, whether relating to the NASCAR License or otherwise, other than the Assumed Liabilities.

Prior to the execution and closing of the sale and assignment of the NASCAR License, the Company, through its subsidiary 704, developed, manufactured, marketed, distributed and sold video game titles related to NASCAR (the “NASCAR Games”).

As consideration for such sale and assignment of the NASCAR License and all rights related thereto, iRacing paid to 704 \$5,000,000 at closing of the transactions contemplated by the Assignment. In addition, iRacing is obligated under the Assignment to pay 704 additional (i) \$500,000 payable on the date that is 6 months following such closing and (ii) \$500,000 on the earlier of such date when all NASCAR Games have been removed by 704 from the websites, smart phone applications or other digital portal engaging in sales or providing access to the NASCAR Games, including without limitation Xbox, PlayStation and Switch and all other domain names, web addresses and websites used by 704 in its business (collectively, the “Business Platforms”), or December 31, 2024, provided that all NASCAR Games have been removed by 704 from the Business Platforms; and in any event no earlier than such date that is one (1) year following the closing of the Assignment.

Pursuant to the Assignment, 704 agreed to remove all 704’s NASCAR Games that were conceived, developed or sold prior to the closing of the Assignment (collectively “Legacy NASCAR Games”) from all Business Platforms no later than December 31, 2024. Pursuant to the Assignment, following the closing, 704 cannot develop, create or license any new content related to NASCAR Games other than ordinary course of business “patches” and the impending “NASCAR Heat 5 2022 Season DLC. Pursuant to the Assignment, following the closing, 704 will not restrict, limit or impede, directly or indirectly, iRacing from obtaining any additional licenses from NASCAR, including, but not be limited to, any racetracks, race cars, race car drivers or racing teams that are raced or participate in the NCWTS, NXS, NCS, NBS, or any NASCAR branded series of any kind whether national, regional or international. “NCWTS,” “NXS” and “NCS” means respectively “NASCAR Camping World Truck Series,” “NASCAR Xfinity Series,” “NASCAR Cup Series,” and NASCAR branded series or any respective predecessor or successor series thereto, and any other additional licenses that may be included in such licenses between NASCAR and iRacing or its affiliates. Notwithstanding the foregoing, the Assignment provides that 704 may continue to sell all Legacy NASCAR Games until December 31, 2024 pursuant to a new NASCAR New Limited License (as defined and summarized in Part III of this Item 1.01).

The closing of the Assignment was conditioned upon (i) consent to such Assignment by NASCAR and a limited release of certain liabilities by NASCAR, which consent and release was obtained on October 3, 2023, as disclosed in Part II of this Item 1.01; (ii) NASCAR granting to 704 such rights as are needed for 704 to continue distributing and selling through December 31, 2024 the Legacy NASCAR Games pursuant to a new NASCAR New Limited License, which license was granted to 704 by NASCAR at the closing of the Assignment and (iv) iRacing and NASCAR entering into a new amended and restated license agreement replacing the NASCAR License in its entirety effective upon such closing, which condition has been satisfied at such closing.

The foregoing description of the Assignment does not purport to be complete and is qualified in its entirety by reference to the full text of the Assignment filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Part II.

On October 3, 2023, 704 entered into a Consent to Assignment and Assumption of, and Releases (the “NASCAR Consent”) with NASCAR and iRacing, with respect to the transactions contemplated by the Assignment.

Pursuant to the NASCAR Consent, the parties agreed that, as a condition to NASCAR’s consent to the Assignment and the releases, 704 paid NASCAR from the proceeds received by 704 from iRacing upon the closing of the Assignment the following sums, which are designated as minimum annual guarantee as set forth in the NASCAR New Limited License: (i) the remaining portion of the Minimum Annual Guarantee under the NASCAR License for 2023 in the amount of \$656,114.89, and (ii) a prepaid, mutually agreed upon reduced amount of the Minimum Annual Guarantee under the NASCAR License for 2024 in the amount of \$598,000.

Pursuant to the NASCAR Consent, except with respect to the Carved-Out Obligations (as defined below), NASCAR released 704 and its affiliates from any and all obligations or liabilities of any nature (whether fixed, contingent, potential or otherwise, and whether due or to become due, known or unknown, accrued or unaccrued, and whether presently existing, or arising or asserted after the date of this consent) in connection with the NASCAR License.

“Carved-Out Obligations” means (i) customer support and liabilities of the Legacy NASCAR Games during the effective date of the NASCAR License to December 31, 2024 and (ii) obligations of 704 under the NASCAR New Limited License (as defined below). Except as set forth in the NASCAR New Limited License, the Carved-Out Obligations do not include any obligation and any related Liabilities with respect to any royalties under the NASCAR New Limited License.

The foregoing description of the NASCAR Consent does not purport to be complete and is qualified in its entirety by reference to the full text of the NASCAR Consent filed as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Part III.

On October 3, 2023, 704 entered into a new Limited License Agreement with NASCAR (the “NASCAR New Limited License”). Pursuant to the NASCAR New Limited License, NASCAR granted 704 a limited non-exclusive right and license to manage, support, operate, distribute, provide operational sell-off marketing (including sales incentives and promotions) and sell the Licensed Products (defined in the NASCAR New Limited License as games and DLC listed in the table included to the NASCAR New Limited License). The sell-off marketing (including sales incentives and promotions) will be subject to NASCAR’s prior written approval, which approval will not be unreasonably withheld. 704 may, at its option, distribute the Licensed Products for sale to consumers and retail outlet directly, directly via the Internet subject to the limitations in the NASCAR New Limited License and/or via distributors on a regional (i.e., country-by-country) basis.

In consideration of the rights granted the NASCAR New Limited License, 704 is obligated to pay NASCAR a royalty as a percentage of Net Sales (as defined in the NASCAR New Limited License) of Licensed Products, subject to prepayment by 704 of the following the following sums disclosed in Part II of this Item 1.01: (i) the remaining portion of the Minimum Annual Guarantee under the NASCAR License for 2023 in the amount of \$656,114.89, and (ii) a prepaid, mutually agreed upon reduced amount of the Minimum Annual Guarantee under the NASCAR License for 2024 in the amount of \$598,000. 704 paid such sums to NASCAR from the proceeds received by 704 from iRacing upon the closing of the Assignment.

For clarification, the NASCAR New Limited License does not grant 704 any right to create, make and/or sell any new product as the NASCAR New Limited License is solely intended to allow 704 to continue supporting the Licensed Products created pursuant to the original NASCAR License through December 31, 2024.

The foregoing description of the NASCAR New Limited License does not purport to be complete and is qualified in its entirety by reference to the full text of the NASCAR New Limited License filed as Exhibit 10.3 to this Current Report on Form 8-K and is incorporated herein by reference.

There is no material relationship between the Company or its affiliates (including 704), on the one hand, and iRacing and/or NASCAR, on the other hand, other than in respect of the transaction pursuant to the Assignment, the NASCAR Consent and the NASCAR New Limited License.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The disclosures provided in Item 1.01 of this Report are hereby incorporated by reference into this Item 2.01.

Item 8.01. Other Events.

On October 5, 2023, the Company issued a press release announcing the sale and transfer of the NASCAR License to iRacing. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(b) Pro Forma Financial Information.

The unaudited pro forma condensed consolidated statements of income of the Company and the unaudited pro forma consolidated balance sheet of the Company for the six months ended June 30, 2023, after giving pro forma effect to sale and transfer of the NASCAR License to iRacing, and notes to the unaudited pro forma condensed financial statements is filed as Exhibit 99.2 to this Current Report on Form 8-K and incorporated by reference herein. This information should be read in conjunction with the historical financial statements and notes of the Company included in the Quarterly Report on Form 10-Q for the period ended June 30, 2023 and in the Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	<u>Assignment and Assumption Agreement, dated as of October 3, 2023, among the Company, 704GAMES LLC and iRacing.com Motorsport Simulations, LLC</u>
10.2*	<u>Consent to Assignment and Assumption of, and Releases, dated as of October 3, 2023, among 704GAMES LLC, iRacing.com Motorsport Simulations, LLC and NASCAR Team Properties, a series trust organized under the laws of Delaware.</u>
10.3*	<u>Limited License Agreement, dated as of October 3, 2023, between 704GAMES LLC and NASCAR Team Properties, a series trust organized under the laws of Delaware.</u>
99.1	<u>Press release, dated October 5, 2023, announcing the sale and transfer of the NASCAR License to iRacing.com Motorsport Simulations, LLC</u>
99.2	<u>Unaudited pro forma condensed consolidated statement of income of the Company for the twelve months ended December 31, 2022, unaudited pro forma condensed combined statement of income for the six months ended June 30, 2023, unaudited pro forma consolidated balance sheet of the Company for the six months ended June 30, 2023 and notes to the unaudited pro forma condensed financial statements</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Portions of the exhibit, marked by brackets, have been omitted because the omitted information (i) is not material and (ii) is the type that the Company treats as private or confidential.

SIGNATURES

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

Motorsport Games Inc.

Date: October 5, 2023

By: /s/ Stephen Hood

Stephen Hood
Chief Executive Officer and President

EXHIBIT INDEX

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*	Portions of the exhibit, marked by brackets, have been omitted because the omitted information (i) is not material and (ii) is the type that the Company treats as private or confidential.

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“*Agreement*”) is entered into as of October 3, 2023, by and among (i) iRACING.COM MOTORSPORT SIMULATIONS, LLC, a Delaware limited liability company (the “*Assignee*”); (ii) 704GAMES LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation) (the “*Company*” or the “*Assignor*”); and (iii) MOTORSPORT GAMES INC., a Delaware corporation and the sole member of the Company (the “*Stockholder*”).

RECITALS:

A. The Assignor operates a Business (as defined below) and owns certain assets that are used or held for use in connection with such Business (as defined below).

B. The Assignor determined the Company’s development resources could not support the IP licenses it held in order to develop revenue generating games for each license and which certain guaranteed payment minimums were contributing to economic losses for the Business.

C. The Assignor desired to sell one or more excess IP license in order to minimize losses and generate profitability. Therefore, the Assignor initiated discussions with Assignee through Frank Sagnier. Mr. Sagnier is a veteran of the games industry with particular knowledge of, and success within, the racing genre working for leading game companies, including Codemasters that was acquired by Electronic Arts in 2021. As CEO of Codemasters he was responsible for brands such as Formula One, GRID, DiRT Rally and Project CARS. Mr. Sagnier was retained to negotiate the potential assignment of certain assets of the Company, including the Contract (as defined below), in exchange for good and valuable consideration.

D. The Assignee’s proposed transaction was the most favorable proposal provided to the Assignor, amongst other offers received by the Assignor, and which was accepted by the Assignor.

E. Based on the potential game development capabilities, proven success and other related business synergies, Assignor determined Assignee to be the most qualified to receive the license in order to receive NASCAR’s consent to the transactions contemplated herein. Therefore the Assignor desires to assign to Assignee, and the Assignee desires to receive from Assignor, the Contract, and the Assignee desires to assume from the Assignor, the Assumed Liabilities (as defined below), on the terms and subject to the conditions set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

Assignment & Assumption Agreement

ARTICLE I
DEFINITIONS

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the meanings set forth or as referenced below:

“Action” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“Affiliate” when used with respect to any specified Person, means any other Person who or that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person.

“Business” means the business of Assignor, as conducted on the date of this Agreement, including without limitation the business of the development, distribution, promotion, marketing, commercial exploitation of hardcopy, web-based and mobile-based videogames.

“Business Platform” means any website, smart phone application or other digital portal engaging in sales or providing access to the NASCAR Games to Players, including without limitation Xbox, PlayStation and Switch and all other domain names, web addresses and websites used by Assignor in the Business.

“Contract” shall mean the Second Amended and Restated Distribution and License Agreement by and between 704Games LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation), a wholly owned subsidiary of the Stockholder, and NASCAR Team Properties, a series trust organized under the laws of Delaware, effective as of January 1, 2019, as amended by that certain Amendment to Second Amended and Restated Distribution and License Agreement, dated November 13, 2020, and the Amendment to Second Amended and Restated Distribution and License Agreement, dated November 30, 2020.

“Control” shall mean, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. The term **“Controlled”** shall have a correlative meaning.

“Data Laws” means Laws applicable to data or information privacy, data or information security, data transfer (including cross-border transfer), and/or confidential or personal information, as well as industry standards or guidelines applicable to the Company.

“Governmental Authority” means any governmental, regulatory or administrative authority, agency or commission or any court, tribunal, judicial or arbitral body and any instrumentality of any of the foregoing.

“Indebtedness” of any Person means, without duplication, (a) the principal, accrued and unpaid interest, prepayment and redemption premiums or penalties (if any), unpaid fees or expenses and other monetary obligations in respect of (i) indebtedness of such Person for money borrowed and (ii) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (b) all obligations of such Person issued or assumed as the deferred purchase price of real or personal property, all conditional sale obligations of such Person related to the purchase of real or personal property (but excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of business (other than the current liability portion of any indebtedness for borrowed money)); (c) all obligations of such Person under leases required to be capitalized in accordance with generally accepted accounting principles; (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (e) all obligations of such Person under interest rate or currency swap transactions (valued at the termination value thereof); (f) any obligations to make payments of the deferred purchase price owed in connection with any acquisitions; (g) any securitizations, synthetic leases or similar off-balance sheet facilities of the Company in existence immediately prior to the Closing; (h) prepayment or redemption premiums and penalties (if any), unpaid fees or expenses and other monetary obligations in respect of any redeemable preferred stock of such Person; and (i) all obligations of the type referred to in clauses (a) through (h) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations.

“Intellectual Property” means all intellectual property and industrial property rights and assets, and all rights, interests and protections that are associated with, similar to, or required for the exercise of, any of the foregoing, however arising, pursuant to the Laws of any jurisdiction throughout the world, whether registered or unregistered, including any and all rights in and to: (a) trademarks, service marks, trade names, brand names, logos, trade dress, design rights and other similar designations of source, sponsorship, association or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications and renewals for, any of the foregoing; (b) internet domain names, whether or not trademarks, registered in any top-level domain by any authorized private registrar or Governmental Authority, web addresses, web pages, websites and related content, accounts with Twitter, Facebook and other social media companies and the content found thereon and related thereto, and URLs; (c) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights, author, performer, moral and neighboring rights, and all registrations, applications for registration and renewals of such copyrights; (d) inventions, discoveries, trade secrets, business and technical information and know-how, databases, data collections and other confidential and proprietary information and all rights therein; (e) patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions and extensions thereof), patent applications, and other patent rights and any other Governmental Authority-issued indicia of invention ownership; (f) software and firmware, including data files, source code, object code, application programming interfaces, architecture, files, records, schematics, computerized databases and other related specifications and documentation; (g) royalties, fees, income, payments and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and (h) all rights to any Actions of any nature available to or being pursued by Assignor to the extent related to the foregoing, whether accruing before, on or after the date hereof, including all rights to and claims for damages, restitution and injunctive relief for infringement, dilution, misappropriation, violation, misuse, breach or default, with the right but no obligation to sue for such legal and equitable relief, and to collect, or otherwise recover, any such damages.

“IRS” shall mean the U.S. Internal Revenue Service.

“Knowledge” Any reference to actual knowledge of the Assignor or the Company shall mean the knowledge of Stephen Hood and Jason Potter.

“Laws” shall mean any federal, national, state, provincial or local statute, law, ordinance, regulation, rule, code, order or other requirement or rule of law.

“**Liability**” or “**Liabilities**” means any liabilities of any nature (whether fixed, contingent, potential or otherwise, and whether due or to become due, known or unknown, accrued or unaccrued), and whether presently existing, or arising or asserted after the Closing.

“**Lien**” shall mean any lien (statutory or otherwise), mortgage, pledge, charge, option, hypothecation, collateral assignment, encumbrance, security interest, restriction or similar claim in equity of any kind or nature whatsoever, excluding statutory liens for current Taxes not yet delinquent.

“**NASCAR**” shall mean NASCAR Team Properties.

“**NASCAR Games**” means video game titles related to NASCAR offered, developed or created by Assignor, under the Contract, as of the Closing Date.

“**Person**” shall mean any individual, corporation, partnership, limited liability company, joint venture, governmental agency or instrumentality, or any other entity.

“**Personal Data**” means all personally identifiable information collected by the Assignor in operating the Business, including name, residential or business address, email address, and driver’s license or government issued identification number.

“**Player**” means any Person who has made purchases via one of the Business Platforms.

“**Player Account Data**” means any and all information obtained, held or otherwise maintained by, or on behalf of Assignor (or otherwise by the Business) with respect to any Player, including any Personal Data with respect to any Player.

“**Tax**” means (a) all federal, provincial, territorial, state, municipal, local, foreign or other taxes, imposts, rates, levies, assessments and other charges in the nature of a tax (and all interest and penalties thereon and additions thereto imposed by any Governmental Authority), including without limitation all income, excise, franchise, gains, capital, real property, goods and services, transfer, value added, gross receipts, windfall profits, severance, ad valorem, personal property, production, sales, use, license, stamp, documentary stamp, mortgage recording, employment, payroll, social security, unemployment, disability, estimated or withholding taxes, and all customs and import duties, in each case whether disputed or not; (b) any Liability for the payment of any amounts of the type described in clause (a) as a result of being or having been a member of an affiliated, consolidated, combined or unitary group; and (c) any Liability for the payment of any amounts as a result of being party to any tax sharing agreement or arrangement or as a result of any express or implied obligation to indemnify any other person with respect to the payment of any amounts of the type described in clause (a) or (b).

“**Tax Returns**” means any returns statement, report, form, information return or claim for refund relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

ARTICLE II
ASSIGNMENT AND ASSUMPTION

2.1 Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, Assignee and Assignor agree that Assignor is not transferring, and Assignee is not assuming, whether directly or indirectly, any liabilities, claims or obligations of any kind relating to the Business or the Contract, except for all Liabilities that accrue under the Contract following the Closing Date (the “**Assumed Liabilities**”), which shall be the only Liabilities or obligations assumed by the Assignee.

2.2 Exclusion of Liabilities. Notwithstanding any other provisions in this Agreement, the Assignee shall not assume any Liabilities of the Assignor (or any Affiliates of the Assignor), whether relating to the Contract, the Business, the NASCAR Games, or otherwise, other than the Assumed Liabilities (all such Liabilities other than the Assumed Liabilities, collectively, the “**Excluded Liabilities**”), which shall include, without limitation, the following specific Excluded Liabilities:

(a) Any Liabilities to the extent relating to an Excluded Asset (as defined below).

(b) Any Liabilities in respect of Taxes of the Assignor or of the Business (in respect of the period prior to and including the Closing Date) including, without limitation, (w) federal, state, provincial, local, foreign or other income or franchise Taxes arising from, relating to or attributable to the Contract in respect of the period prior to and including the Closing Date (x) any Taxes arising in connection with the transactions contemplated by this Agreement, (y) end-user Taxes or (z) any liabilities for Taxes arising as a result of the failure by Assignor or the Stockholders to issue any IRS Form 1099 to any relevant consultant, advisor or independent contractor or other person required to receive such form.

(c) Any Liabilities to the extent resulting from, caused by or arising out of, directly or indirectly, actions pending on or prior to the Closing or facts or conditions to the extent existing on or prior to the Closing Date relating to patent, trademark or copyright infringement or any other infringement of the Intellectual Property rights of any Person or violation of any Law or governmental order, including any royalties or minimum guarantees or any other consideration owed to NASCAR or any other third party, or customer and product support related to NASCAR Games.

(d) Any legal, investment banking and other advisory costs and expenses incurred or accrued by or on behalf of the Assignor in connection with the transactions contemplated by this Agreement that are not paid by Assignor at or prior to the Closing.

(e) Any employee Liabilities to the extent relating to present and past employees of Assignor with respect to plans, programs, policies, commitments, and other benefit entitlements established or existing on or prior to Closing (whether or not such Liabilities are accrued or payable at Closing, and whether or not such Liabilities are contingent in nature), including any Liability (i) for any accrued wages or salaries for periods prior to the Closing, (ii) for severance or dismissal pay or otherwise in connection with any termination of employment by Assignor prior to the Closing, (iii) for accrued vacation or sick time accrued prior to the Closing or (iv) relating to any employee plan.

(f) Any Liabilities of the Assignor under this Agreement.

(g) Any Indebtedness of Assignor or its Affiliates, whether or not relating to the Business.

(h) Any Liabilities under any contract, except under the Contract and only as described herein.

2.3 Assignment of the Contract. Upon the terms and subject to the conditions of this Agreement, Assignor and Assignee agree that on the Closing Date, Assignor shall convey, assign, transfer and deliver to the Assignee, and the Assignee agrees to accept and acquire for the consideration provided herein, sufficient, all rights and marketable title, free and clear of all liabilities except for Assumed Liabilities, to the Contract, including but not limited all data and information, whether in hard copy or electronic format, used or held for use in connection with the Contract and the Assumed Liabilities including, without limitation, all Player Account Data related thereto (collectively, the “**Business Records**”).

2.4 Excluded Assets. Notwithstanding anything contained in this Agreement to the contrary, Assignor shall retain all of Assignor’s right, title and interest in and to, as of the Closing Date, all of the assets and properties, whether tangible or intangible, wherever situated and whether or not specifically referred to herein or in any instrument or conveyance delivered pursuant hereto, other than the “**Excluded Assets**”).

2.5 Closing. The consummation of the transfer of the Contract and the assumption of the Assumed Liabilities provided for herein (the “**Closing**”) shall take place simultaneously with the execution and delivery of this Agreement by the parties (the “**Closing Date**”). The Closing shall take place by delivery via signed and emailed PDF documents or facsimile transmission (with originals sent via overnight courier service) of the documents to be delivered at the Closing and the transfer of the consideration set forth herein, or at such other place or in such other manner as the parties hereto may mutually agree in writing.

2.6 Deliveries at Closing; Deliveries of Assignor. In addition to the taking of such other actions as may be provided for in this Agreement, at the Closing:

(a) Assignee shall deliver good and valid evidence, in a form satisfactory to the Assignor, that NASCAR consents to the Assignment (as defined in Section 3.1(d)) and the transactions contemplated herein, including the New Assignor License (as defined in Section 6.3 hereof) and NASCAR’s release of the Assignor and its Affiliates from certain obligations and Liabilities related to the Contract as set forth in that certain letter agreement re: consent to assignment, assumption and releases in the form attached hereto as Exhibit A (the “**NASCAR Consent and Release**”).

**ARTICLE III
CONSIDERATION**

3.1 Consideration. Subject to the terms and conditions in this Agreement, as consideration for the assignment, transfer and delivery on the date hereof of the Contract and the Assumed Liabilities to the Assignee, Assignee shall pay Assignor as follows:

(a) \$5,000,000.00 payable in full at Closing.

(b) \$500,000.00 payable on such date that is six (6) months following the Closing.

(c) \$500,000.00 payable on the earlier of (i) such date when all NASCAR Games have been removed by the Assignor from the Business Platforms, or (ii) December 31, 2024, *provided that* all NASCAR Games have been removed by the Assignor from the Business Platforms; and in any event no earlier than such date that is one (1) year following the Closing.

(d) Assignment. Effective as of the Closing, Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title, benefit, privileges and interest in and to the Contract, including the Business Records, and all of Assignor's burdens, obligations and liabilities in connection with each of the Assumed Liabilities (collectively, the "**Assignment**"). Assignee hereby accepts the Assignment and assumes and agrees to observe and perform all of the duties, obligations, terms, provisions and covenants, and to pay and discharge all of the liabilities of Assignor to be observed, performed, paid or discharged from and after the Closing, in connection with the Contract and Assumed Liabilities. Assignee expressly understands and agrees that it is not assuming hereunder any Excluded Assets. Assignor expressly acknowledges and agrees that Assignee is not assuming hereunder any Excluded Liabilities.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES
OF ASSIGNOR AND THE STOCKHOLDER**

The Assignor and the Stockholder hereby jointly and severally represent and warrant to Assignee that the statements contained in this Article IV are true and correct as of the date hereof, except as expressly set forth on the Disclosure Schedule attached hereto (the "**Disclosure Schedule**"). The Disclosure Schedule shall be arranged in numbered sections corresponding to the Sections contained in this Article IV. Any exception, limitation or information disclosed on any specific Section of the Disclosure Schedule shall be deemed to be disclosed on all other Sections of the Disclosure Schedule and to apply with respect to and limit all representations and warranties in this Agreement to the extent the information disclosed in such exception or limitation is reasonably applicable to such other Sections of the Disclosure Schedule notwithstanding the omission of a cross-reference.

4.1 Existence and Power. Assignor is a limited liability company duly formed, validly existing and in good standing under the Laws of its jurisdiction of incorporation.

4.2 Authorization; Execution. The execution, delivery and performance by Assignor of this Agreement, and the consummation by Assignor of the transactions contemplated hereby and thereby are within Assignor's powers and have been duly authorized by all necessary limited liability company action on the part of Assignor. This Agreement has been duly executed and delivered by Assignor and constitutes a valid and binding agreement of Assignor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

4.3 Non-Contravention. The execution, delivery and performance by the Assignor of this Agreement, and the consummation of the transactions contemplated hereby and thereby, do not and will not (i) contravene or conflict with the certificate of formation and operating agreement of the Assignor, (ii) contravene or conflict with any provision of any Law, judgment, injunction, order, permit or decree binding upon or applicable to the Assignor or the Business, (iii) constitute a default (with or without notice or lapse of time, or both) under or give rise to any right of termination, cancellation or acceleration of any right or obligation of the Assignor, or to a loss of any benefit, relating to the Business to which the Assignor is entitled, under any provision of any contract binding upon the Assignor or (iv) result in the creation or imposition of any Lien on the Contract.

4.4 No Undisclosed Liabilities. Except as disclosed in the Disclosure Schedule, there are no Liabilities of the Assignor, and there is no existing condition, situation or set of circumstances which would reasonably be expected to result in any Liability of the Assignor or the Contract. All Liabilities in excess of \$30,000 (per Liability) are disclosed in the Disclosure Schedules.

4.5 The Contract. Assignor has delivered to Assignee a true, correct and complete copy of the Contract, together with all modifications and supplements thereto. Assignor has performed in all material respects all obligations required to be performed by it under the Contract immediately prior to the Closing.

4.6 Intellectual Property

(a) The Disclosure Schedule lists: (i) all Business Platforms which the Assignor uses to conduct business related to the Contract, whether currently sold, published, offered, or under development (including in the concept phase) by Assignor, or otherwise used by Assignor in connection with the Business.

(b) The Disclosure Schedule identifies and describes each distinct electronic or other database containing (in whole or in part) Personal Data maintained by or for the Assignor at any time (the "**Assignor Databases**"), the types of Personal Data in each such database, the means by which the Personal Data was collected, and the security policies that have been adopted and maintained with respect to each such database. To the Knowledge of Assignor, no material breach or violation of any such security policy has occurred or is threatened, and, to the Knowledge of the Assignor, there has been no unauthorized or illegal use or access to any of the data or information in any of the Assignor Databases.

(c) The Disclosure Schedule sets forth each privacy policy displayed on Business Platforms governing the use of Personal Data and Player Account Data by the Assignor (hereinafter, each a “**Assignor Privacy Policy**”). The Assignor has materially complied at all times with and, as presently conducted, is in compliance with, the Assignor Privacy Policy and all Data Laws. To the Knowledge of Assignor, there has been no incident in which Personal Data or Player Account Data was or may have been stolen, misplaced or improperly accessed or disclosed, and the Assignor is not aware of any facts suggesting the likelihood of the foregoing, including without limitation, any breach of information security or receipt of any notices or complaints from any law enforcement agency or any other Person regarding Personal Data or Player Account Data. To the Assignor’s Knowledge, there have not been any investigations conducted or claims asserted with respect to the Assignor by any other Person (including any Governmental Authority) regarding the collection, use, storage, distribution, transfer, import, export, disposal or disclosure of Player Account Data (including as a result of the conduct of the Assignor’s Business or any violation of applicable law) and none is pending, or to the Knowledge of the Assignor, threatened, and to the Knowledge of the Assignor, there is no basis for the same. Neither the execution, delivery or performance of this Agreement or any of the other agreements referred to in this Agreement nor the consummation of any of the transactions contemplated by this Agreement or any such other agreements, will result in any violation of any the Assignor Privacy Policy or any applicable Law pertaining to privacy, Player Account Data or Personal Data. Except for restrictions set forth in the Assignor Privacy Policies or under applicable Law, there is no restriction on the use by the Assignor of Player Account Data collected by Assignor prior to the Closing Date, nor on the sale and transfer of the Player Account Data as contemplated by this Agreement. Except as set forth on Section 4.6(c) of the Disclosure Schedule, Assignor has not previously sold or transferred any Player Account Data or Personal Data to a third party.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF ASSIGNEE

The Assignee hereby represents and warrants to Assignor that:

5.1 Organization and Existence. Assignee is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and has all corporate powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

5.2 Authorization; Execution. The execution, delivery and performance by Assignee of this Agreement, and the consummation by Assignee of the transactions contemplated hereby and thereby are within Assignee’s powers and have been duly authorized by all necessary corporate action on the part of Assignee. This Agreement has been duly executed and delivered by Assignee and constitutes a valid and binding agreement of Assignee, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors’ rights generally and general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

ARTICLE VI COVENANTS

6.1 Removal of NASCAR Games. Assignor will remove all Legacy NASCAR Games (as defined in Section 6.3 below) from all Business Platforms no later than December 31, 2024. Notwithstanding the foregoing or anything to the contrary herein, Assignor may continue to sell all Legacy NASCAR Games until December 31, 2024. For the avoidance of doubt, and pursuant to Section 2.2 hereof, Assignee will retain no financial support, legal or any other Liabilities or obligations whatsoever for the Legacy NASCAR Games and at any time prior to or following the Closing.

6.2 Amended and Restated Contract. The Closing shall not occur until the Assignee and NASCAR have entered into a new agreement replacing the Contract in its entirety, to become effective upon the Closing or on such later date as the Assignee and NASCAR mutually agree to in their own discretion, containing terms consistent with those set forth in Exhibit B to the NASCAR Consent and Release.

6.3 NASCAR New License to Assignor and Release of Assignor From Liabilities. The Assignor (subject to any required NASCAR consents required to be obtained; which consent shall be obtained as part of and together with the New Assignor License) will obtain from NASCAR (i) the NASCAR Consent and Release and (ii) Distribution and License Agreement from NASCAR to Assignor, under a license from the Closing Date through December 31, 2024 (the “**New Assignor License**”), granting to the Assignor such rights as are needed for Assignor to continue distributing and selling through December 31, 2024 Assignor’s NASCAR Games that were conceived, developed or sold prior to Closing (“**Legacy NASCAR Games**”). The Closing shall not occur until Assignor has obtained the NASCAR Consent and Release and the New Assignor License is granted by NASCAR to the Assignor.

6.4 Restrictive Covenants.

(a) Following the Closing, the Assignor will not restrict, limit or impede, directly or indirectly, the Assignee from obtaining any additional licenses from NASCAR to the Assignor or its Affiliates (“**NASCAR Market Licenses**”) through either exclusive or non-exclusive transactions or for any other reason. “**NASCAR Market Licenses**” shall include but not be limited to any racetracks, race cars, race car drivers or racing teams that are raced or participate in the NCWTS, NXS, NCS, NBS, or any NASCAR branded series of any kind whether national, regional or international. “**NCWTS,**” “**NXS,**” “**NCS**” means respectively “**NASCAR Camping World Truck Series,**” “**NASCAR Xfinity Series,**” “**NASCAR Cup Series,**” and NASCAR branded series or any respective predecessor or successor series thereto, and any other additional licenses that may be included in such licenses between NASCAR and the Assignee or its Affiliates.

(b) Following the Closing, Assignor shall not develop, create or license any new content related to NASCAR Games other than ordinary course of business “patches” and the impending “NASCAR Heat 5 2022 Season DLC.”

(c) Enforcement of Covenants. Each of the parties hereto acknowledges and agrees that in the event of any breach of a covenant under this Agreement that Assignee would be irreparably and immediately harmed. If a breach of covenant occurs, the Assignee shall be entitled, in addition to all other rights and remedies that the Assignee may have at law or in equity, to have an injunction issued by any competent court enjoining and restraining the Assignor and all other Persons involved therein from continuing such breach, and without the necessity of posting a bond. Further, it is accordingly agreed that (i) Assignor will waive, in any action for specific performance or the defense of adequacy of a remedy at law, and (ii) Assignee shall be entitled, in addition to any other remedy to which they may be entitled at law or in equity, to compel specific performance of this Agreement. The existence of any claim or cause of action that the Assignor or any such other Person may have against Assignee shall not constitute a defense or bar to the enforcement of the covenants set forth in this Article VI. If the Assignee must resort to litigation to enforce any of the covenants that has a fixed term, then such term shall be extended for a period of time equal to the period during which a breach of such covenant was occurring, beginning on the date of a final court order (without further right of appeal) holding that such a breach occurred or, if later, the last day of the original fixed term of such covenant.

(d) Scope of Covenants. If any covenant, or any part thereof, or the application thereof, is construed to be invalid, illegal or unenforceable, then the other covenants, or the other portions of such covenant, or the application thereof, shall not be affected thereby and shall be enforceable without regard thereto. If any of the covenants is determined to be unenforceable because of its scope, duration, geographical area or other factor, then the court making such determination shall have the power to reduce or limit such scope, duration, area or other factor, and such covenant shall then be enforceable in its reduced or limited form.

ARTICLE VII MISCELLANEOUS

7.1 Indemnification. Assignor and the Stockholders (the “*Indemnifying Parties*”), jointly and severally, agree to indemnify and hold Assignee and its affiliates, their respective directors, officers and employees, and each other person, if any, controlling Assignee or any of its Affiliates (Assignee and each such other person or entity are hereafter referred to as an “*Indemnified Person*”) from and against any and all losses, claims, damages, expenses (including reasonable fees and disbursements of counsel), obligations and liabilities, or actions or proceedings in respect thereof (collectively “*Losses*”), caused by, relating to, based upon or arising out of:

- (a)** the inaccuracy of any representation or warranty made by any Indemnifying Party in or pursuant to this Agreement; or
- (b)** any failure by the Indemnifying Party to perform any obligation or comply with any covenant or agreement specified in this Agreement.

The Indemnifying Parties agree to reimburse each Indemnified Person for all expenses (including the reasonable fees and disbursements of counsel) as they are incurred by such Indemnified Person in connection with investigating, preparing, defending, paying, settling or compromising any claim, action, suit, proceeding, or Loss, whether or not in connection with an action in which any Indemnified Person is a named party.

7.2 Publicity. Upon Closing, the Assignee shall send an initial press release draft to Assignor. Until forty-five (45) days after the Closing, neither party shall issue such press release or any other press releases or other publicity without the other party’s prior review and prior written approval; provided, however, that Assignor shall have the right to make all public disclosures regarding the transactions contemplated herein, including on Forms 8-K, 10-Q and 10-K and other filings and disclosures, under the securities laws, rules and regulations, including those promulgated by the U.S. Securities and Exchange Commission and NASDAQ.

7.3 Remedies. The parties shall each have and retain all rights and remedies existing in their favor solely at equity, including without limitation, any actions for specific performance and/or injunctive or other equitable relief to enforce or prevent any violation of this Agreement. Without limiting the generality of the foregoing, Assignor hereby agrees that in the event Assignor fails to convey the Assigned Assets to the Assignee in accordance with the provisions of this Agreement, Assignee's remedy at law will be inadequate. In such event, Assignee shall have the right, in addition to all other rights and remedies it may have, to specific performance of the obligations of Assignor to convey the Assigned Assets. Notwithstanding anything to the contrary contained herein, if Assignee obtains such specific performance, then such specific performance shall be the sole and exclusive remedy of Assignee for any non-assignment of the Contract.

7.4 No Third Party Beneficiaries. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity other than Assignee, Stockholder and Assignor any rights, remedies or other benefits under or by reason of this Agreement.

7.5 Notices. Any notice required or permitted to be given by either party under this Agreement shall be in writing and shall be personally delivered or sent by a reputable overnight mail service (e.g., Federal Express), or by first class mail (postage prepaid), or by email to the email addresses set forth below, or facsimile confirmed by first class mail (postage prepaid) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to the Assignee:

iRacing Motorsport Simulations, LLC
300 Apollo Drive
Chelmsford MA 01824
Attn: Anthony Gardner
Email: tony.gardner@iracing.com

with a copy to:

Morse, Barnes-Brown and Pendleton, PC
480 Totten Pond Road
Waltham, MA 02451
Attn: Michael Cavaretta, Esq.
Email: mcavaretta@morse.law

if to the Assignor:

704 Games LLC
5972 NE 4th Avenue
Miami, FL 33137
Attention: Jason Potter
Email: jason.potter@motorsport.com

7.6 Assignment. The rights or obligations of the parties hereto may not be assigned without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, except that the Assignee may assign all or part of its rights and obligations under this Agreement to one or more direct or indirect subsidiaries (in which event, representations and warranties relating to Assignee shall be appropriately modified) and *provided that* Assignee remains obligated for all purposes under this Agreement. Subject to the foregoing, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the permitted successors and assigns of the parties hereto.

7.7 Waiver and Modification. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Any waiver, amendment or other modification of any provision of this Agreement will be effective only if in writing and signed by Assignee and Assignor.

7.8 Governing Law and Forum; JURY TRIAL WAIVER. This Agreement will be governed by and construed and enforced in accordance with laws of the State of Delaware without giving effect to conflict of laws principles. TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, WHICH CANNOT BE WAIVED, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT, POWER, REMEDY OR DEFENSE ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE, OR WITH RESPECT TO ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING TO THIS AGREEMENT; AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A JUDGE AND NOT BEFORE A JURY.

7.9 Headings. Headings used in this Agreement are for ease of reference only and shall not be used to interpret any aspect of this Agreement.

7.10 Entire Agreement. This Agreement, including all exhibits and schedules which are incorporated herein by reference, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous understandings or agreements, written or oral, regarding such subject matter.

7.11 Counterparts. This Agreement may be executed in two counterparts, each of which shall be an original and together which shall constitute one and the same instrument.

7.12 Reformation. In the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of a provision contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement; but this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provisions or part reformed so that it would be valid, legal and enforceable to the maximum extent possible.

7.13 Fees and Expenses. Each of the parties shall pay their own respective fees and expenses incurred thereby, in each case in negotiating and preparing this Agreement (and all other contracts and documents executed in connection herewith or therewith) and in consummating the transactions contemplated hereby.

7.14 Further Assurances. Following the Closing, each of the Assignor and the Stockholders shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement. In furtherance of the foregoing, following the Closing, Assignor and the Stockholders appoint Assignee, and any officer of Assignee, with full power of substitution, as Assignor's true and lawful attorney-in-fact with full power and authority, upon the Assignee's election and at Assignor's expense, in its own name or in the name of Assignor, to do from time to time, all acts and things which Assignee deems necessary to protect and preserve the Assigned Assets and the Assumed Liabilities, as fully and effectually as Assignor might or could do. The powers of attorney granted by the Assignor and the Stockholders pursuant to this Section 7.14 are coupled with an interest.

7.15 Voluntary Agreement. Assignor, the Stockholders and Assignee have read this Agreement and on advice of counsel they have freely and voluntarily entered into this Agreement.

[Remainder of Page Intentionally Left Blank]

In WITNESS WHEREOF, the undersigned have executed this ASSIGNMENT AND ASSUMPTION AGREEMENT as an instrument under seal as of the day and year first above written.

ASSIGNEE:

IRACING MOTORSPORT SIMULATIONS, LLC

By: /s/ Anthony Gardner

Name: Anthony Gardner

Title: President and Chief Financial Officer

ASSIGNOR:

704 GAMES LLC

By: /s/ Stephen Hood

Name: Stephen Hood

Title: Manager

[Signature Page to Assignment & Assumption Agreement]

Assignment & Assumption Agreement

In WITNESS WHEREOF, the undersigned have executed this ASSIGNMENT & ASSUMPTION AGREEMENT as an instrument under seal as of the day and year first above written.

STOCKHOLDER:

MOTORSPORT GAMES INC.

By: /s/ Stephen Hood

Name: Stephen Hood

Title: Chief Executive Officer and President

Assignment & Assumption Agreement

EXHIBIT A

FORM OF LETTER AGREEMENT RE: CONSENT TO ASSIGNMENT, ASSUMPTION AND RELEASES

(See Attached)

Assignment & Assumption Agreement

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item (601)(b)(10). Such excluded information is not material and is the type that the Company treats as private or confidential.

October 3, 2023

VIA EMAIL ONLY

NASCAR Team Properties
550 South Caldwell Street, 2000
Charlotte, NC 28202
Attention: Megan Malayter
NTP Trustee

Re: Request for consent to assignment and assumption of, and releases (as set forth herein) with respect to, the Second Amended and Restated Distribution and License Agreement by and between 704Games LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation) ("**Assignor**"), and NASCAR Team Properties, a series trust organized under the laws of Delaware ("**NTP**"), effective as of January 1, 2019, as amended by that certain Amendment to Second Amended and Restated Distribution and License Agreement, dated November 13, 2020, and the Amendment to Second Amended and Restated Distribution and License Agreement, dated November 30, 2020 (the "**NTP License**")

Dear Megan:

Reference is made to the above-referenced NTP License. Subject to NTP's prior written consent and approval, Assignor is contemplating an assignment of the NTP License (and the licenses, rights and obligations thereunder) to iRacing.com Motorsport Simulations, LLC, a Delaware limited liability company ("**Assignee**") and Assignee contemplates assuming the rights and obligations and certain liabilities (the "**Assignment and Assumption**"), as described in the Assignment and Assumption Agreement among Assignor, Assignee and Motorsport Games Inc., a Delaware corporation and the sole member of Assignor, a finalized draft of which agreement is attached hereto as Exhibit A (the "**AA Agreement** ").

The purpose of this letter is to notify you of the contemplated Assignment and Assumption, and to obtain your consent to the Assignment and Assumption (the "**Assignment**").

After the consummation (subject to NTP's consent) of the contemplated Assignment and Assumption, Assignee anticipates that it will continue to operate under the NTP License and will proceed to negotiate and document with NTP in due course, as mutually agreed to by NTP and Assignee, an amendment or an amendment and restatement of the NTP License consistent with the terms set forth in the attached Exhibit B.

In accordance with the NTP License, including, without limitation, Section 15.14 of the NTP License, Assignee and Assignor hereby request NTP's consent to the Assignment and Assumption.

As a condition for NTP's consent to the Assignment and Assumption and the releases (including the deferred release of the Carved-Out Obligations (as defined below)) hereunder, Assignor shall pay to NTP from the cash proceeds received by Assignor from Assignee upon closing of the Assignment and Assumption under the AA agreement (the "**Proceeds**"), and subject to Assignor's receipt of the Proceeds, the following sums, which are designated as a minimum annual guarantee in the Limited License (as defined below):

1. The remaining portion of the Minimum Annual Guarantee under the NTP License for 2023 in the amount of \$656,114.89, and
2. A prepaid, mutually agreed upon reduced amount of the Minimum Annual Guarantee under the NTP License for 2024 in the amount of \$598,000.

The above two sums shall be paid by Assignor promptly after Assignor's receipt of the Proceeds to the bank account of NTP provided to Assignor by NTP in writing. Additionally, Assignor and NTP shall negotiate and document the Limited License (as defined below) to memorialize Assignor's obligations with respect to the Legacy NASCAR Games (as defined below) consistent with the terms set forth herein.

By signing below, NTP hereby, effective as of the date of this consent, (i) consents to the Assignment for all purposes under the NTP License, (ii) acknowledges and agrees that the NTP License is in full force and effect and constitutes the legal, valid and binding obligations of NTP and Assignor, (iii) agrees not to exercise any right of termination, acceleration or any other right to make any adverse changes under the NTP License to the extent any such right arises as a result of the Assignment and Assumption, (iv) agrees that the Assignment and Assumption will not constitute or give rise now or in the future to, and/or waive any rights and claims with respect to, a breach, default or other violation under the NTP License (including of any notice requirements in the NTP License with respect to the Assignment and Assumption), (v) except with respect to the Carved-Out Obligations, releases Assignor and its affiliates from any and all obligations or liabilities of any nature (whether fixed, contingent, potential or otherwise, and whether due or to become due, known or unknown, accrued or unaccrued, and whether presently existing, or arising or asserted after the date of this consent) (collectively, "**Liabilities**") in connection with the NTP License, and (vi) agrees and acknowledges that Assignee is a third-party beneficiary of this letter agreement and may rely upon it to effect the Assignment and Assumption.

"**Carved-Out Obligations**" means (i) customer support and Liabilities of the Legacy NASCAR Games (as defined below) during the effective date of the NTP License to December 31, 2024 and (ii) obligations of Assignor under the Limited License (as defined below). For the avoidance of doubt and except as set forth in the Limited License, the Carved-Out Obligations do not include any obligation and any related Liabilities with respect to any royalties under the NTP License (as all remaining 2023 royalties are being paid off and the final 2024 royalty is being pre-paid by Assignor promptly after Assignor's receipt of the Proceeds (as set forth above)).

"**Legacy NASCAR Games**" means Assignor's video game titles related to NASCAR offered, developed or created by Assignor under the NTP License prior to the date of this consent.

"**Limited License**" means that certain limited license Agreement by and between Assignor and NTP, effective as of October 3, 2023, related to Assignor's contemplated distribution, sales and support of the Legacy NASCAR Games, including ordinary course of business "patches."

Nothing herein shall be construed as a release by NTP of Assignor of any of its obligations under the NTP License prior to the effective date of this Assignment.

If you have any questions regarding this request for consent, please direct them to Stephen Hood at sh@motorsportgames.com.

[SIGNATURES ARE ON NEXT TWO PAGES]

Very truly yours,

ASSIGNEE:

IRACING MOTORSPORT SIMULATIONS, LLC

By: /s/ Anthony Gardner

Name: Anthony Gardner

Title: President and Chief Financial Officer

ASSIGNOR:

704 GAMES LLC

By: /s/ Stephen Hood

Name: Stephen Hood

Title: Manager

NTP hereby consents to the Assignment and Assumption and the releases as set forth herein effective as of the date of this consent:

NASCAR TEAM PROPERTIES

By: /s/ Megan Malayter
Name: Megan Malayter
Title: Trustee

Exhibit A

FINALIZED DRAFT OF AA AGREEMENT

[***]

Exhibit B

[***]

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item (601)(b)(10). Such excluded information is not material and is the type that the Company treats as private or confidential.

LIMITED LICENSE AGREEMENT

THIS LIMITED LICENSE AGREEMENT (the "Agreement"), also referenced as Document #651639, is entered into as of October 3, 2023 ("Effective Date") by and among **704Games LLC**, a Delaware limited liability company, whose principal office is at 5972 NE 4th Avenue, Miami, FL 33137 ("**704GAMES**" or "Licensee") and **NASCAR Team Properties**, a series trust organized under the laws of Delaware, whose principal office is at 550 South Caldwell, Suite 2000, Charlotte, NC 28202, solely for and with respect to its Video Game and Digital Series ("NTP" or "Licensor").

WHEREAS, NTP was formed pursuant to that certain Agreement and Declaration of Trust dated as of January 20, 2010 (as may be amended from time to time, the "Trust Agreement");

WHEREAS, NTP and 704GAMES entered into that certain Second Amended and Restated Distribution and License Agreement effective as of January 1, 2019, which was subsequently amended by an Amendment effective November 13, 2020, and an Amendment effective November 30, 2020 (collectively, hereinafter the "Original Agreement");

WHEREAS, 704GAMES agreed to assign the Original Agreement to iRacing.com Motorsport Simulations, LLC ("iRacing"), a Delaware limited liability company, effective October 3, 2023;

WHEREAS, pursuant to the consent letter by and between NTP, 704Games and iRacing, effective as of October 3, 2023, ("Consent Letter") the Original Agreement was formally assigned to iRacing by 704Games with certain modifications to its terms and obligations as specifically set forth in such Consent Letter;

WHEREAS, 704GAMES desires to obtain from NTP a right to manage, support, operate, and sell the Licensed Products (as defined in Exhibit A) in the Distribution Channels (as defined herein) as further set forth in this Agreement and the Consent Letter; and

WHEREAS, for purposes of this Agreement, all capitalized terms and phrases, where written with an initial capital letter, shall have the meaning assigned to them in Exhibit A, unless the context otherwise requires.

NOW, THEREFORE, for and in consideration of the promises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed by and between the parties hereto as follows:

- 1. GOOD FAITH.** Unless otherwise expressly set forth herein, the parties agree to act in good faith and to not conduct themselves in any way that would be deemed unreasonable by an ordinary person in the same circumstances as it relates to all of the underlying provisions in this Agreement, including, but not limited to, approvals, actions, obligations, commitments, determinations, etc.
- 2. TERM.** This Agreement will commence on October 3, 2023 and shall remain in force through December 31, 2024 ("Term").
- 3. TERRITORY.** Worldwide, but only to the extent Licensed Products may be legally offered for sale, sold or otherwise distributed in such territories; provided, that the Territory shall, *at a minimum*, mean the United States of America and its territories, possessions, commonwealths, instrumentalities, protectorates and military bases (collectively, the United States).

4. GRANT OF RIGHTS.

4.1 *Non-Exclusive Rights.* Subject to the terms, conditions, covenants, restrictions and obligations set forth in this Agreement, NTP hereby grants to 704GAMES a **NON-EXCLUSIVE, NON-TRANSFERABLE**, right and license to manage, support, operate, distribute, provide operational sell-off marketing (including sales incentives and promotions) and sell the Licensed Products in the Territory. For clarification, nothing herein grants 704GAMES any right to create, make and/or sell any new product as this license is solely intended to allow 704GAMES to continue supporting the Licensed Products created pursuant to the Original Agreement through the Term. The sell-off marketing (including sales incentives and promotions) shall be subject to NTP’s prior written approval, which approval shall not be unreasonably withheld.

4.2 *Distribution.* There are no limitations on distribution channels. Licensor acknowledges that Licensee may at its option distribute the Licensed Products for sale to consumers and retail outlets: (i) directly; (ii) directly via the Internet subject to the limitations herein; and/or (iii) via distributors on a regional (i.e., country-by-country) basis.

5. ADDITIONAL OBLIGATIONS OF 704GAMES.

5.1 *Customer Service.* 704GAMES shall handle all consumer complaints, including, but not limited to negative feedback originating from on-line content (gaming forums/social media sites), refunds, recalls, warranty compliance, and other matters related to the Licensed Products directly with the end consumer in a professional, ethical and diligent manner which reflects favorably on NTP and the Licensed Products. Any consumer complaints, including, but not limited to negative feedback originating from on-line content (gaming forums/social media sites), refunds, recalls, warranty compliance, and other matters received by 704GAMES related to the NTP Products shall be referred to NTP, and 704GAMES will use Commercially Reasonable Efforts to assist with any such matters to the extent related to the NTP Products marketed, offered for sale, distributed or sold by 704GAMES hereunder.

6. Intentionally Deleted.

7. PAYMENTS. In consideration of this Agreement, 704GAMES shall pay NTP as follows:

7.1 *Royalty Rate.* In consideration for the licenses granted herein, 704GAMES shall pay NTP a total Royalty payment as follows:

Royalty Rate Payable to NTP Starting on the Effective Date (for the avoidance of doubt, the royalty rates set forth in the Original Agreement apply to the periods prior to the Effective Date)

<u>Type of Licensed Product</u>	<u>Royalty Rate</u>
Licensed Product Net Sales	[***]

7.2 *Minimum Annual Guarantees and Advances.* In consideration of the rights granted herein, 704GAMES shall pay (without duplication) the following Minimum Annual Guarantees and advance payments on the Net Sales of Licensed Products to NTP as set forth in the Consent Letter for the calendar year 2024 and as pursuant to the Original Agreement for the calendar year 2023:

<u>MINIMUM ANNUAL GUARANTEE AND ADVANCES</u>	<u>2023</u>	<u>2024</u>
Licensed Products	\$1,030,000 as set forth in the Original Agreement (NTP hereby acknowledges that \$373,885.11 of such Minimum Annual Guarantee has already been paid by 704GAMES to NTP)	\$598,000 as set forth in the Consent Letter

7.3 Payments; Statements and Records.

(a) Payment. All Royalty payments shall be made in U.S. dollars to the order of NTP as set forth in Section 15.1 and are due and payable within forty-five (45) days after the end of each calendar quarter for sales or distributions during such previous calendar quarter. Complete and accurate Royalty Payment reports will be due whether or not there are sales during the previous quarter.

Any advances paid to Licensor by Licensee as set forth in the Consent Letter and the Original Agreement shall be credited against Royalties owed by Licensee to Licensor. Licensee shall solely be responsible for remitting Royalties that exceed the Minimum Annual Guarantee for such given year. All Minimum Annual Guarantees, advances, and Royalties, as well as any other payments made to Licensor herein, shall be non-refundable and shall be fully earned when paid.

Licensee further covenants that it shall pay Licensor the Minimum Annual Guarantee for the calendar year 2024 pursuant to the Consent Letter and for the calendar year 2023 pursuant to the Original Agreement (after giving effect to \$373,885.11 of such Minimum Annual Guarantee has already been paid by 704GAMES to NTP) regardless of whether Licensee is able to sell enough Licensed Product(s) to offset the Minimum Annual Guarantee(s). Licensor relies on such Minimum Annual Guarantee(s) to facilitate its own business objectives and as a result under no circumstances will it reduce, waive or otherwise permit Licensee to carry such Minimum Annual Guarantee(s) forward to another year.

(b) Bankruptcy. In the event of a bankruptcy filing by or against 704GAMES, to the extent that any proceeds from the sales of Licensed Products are deemed to be property of 704GAMES rather than held in trust for NTP, and to the extent that this Agreement has not been terminated, the parties intend that any Royalties during the bankruptcy period be deemed administrative claims under the bankruptcy code because the parties recognize NTP's right to fully exploit the rights hereunder through alternative means will be significantly limited, delayed or eliminated during the bankruptcy period and that the bankruptcy estate will enjoy material benefits with respect thereto.

(c) Correctness of Statements and Payments. The receipt or acceptance by NTP of any statements furnished pursuant to this license or any Royalties paid hereunder (or the cashing of any Royalty checks paid hereunder) shall not be deemed a waiver of any rights.

8. TERMINATION

8.1 *Termination by 704GAMES*. Without limiting any other termination rights of 704GAMES as provided under this Agreement, 704GAMES has the right to terminate this Agreement and its obligations hereunder upon written notice to NTP if NTP commits a material breach of its obligations under this Agreement, and such breach continues uncured for a period of thirty (30) days after delivery of written notice thereof to NTP. Any such termination rights will be in addition to and not in lieu of, any other rights and remedies, whether legal or equitable, to which 704GAMES may be entitled.

8.2 *Termination by NTP.* Without limiting any other termination rights of NTP as provided under this Agreement, NTP has the right to terminate this Agreement and its obligations hereunder immediately upon written notice to 704GAMES without incurring thereby any liability to 704GAMES, in the event of any of the following:

(a) if 704GAMES otherwise fails to perform any of the material terms, conditions, agreements or covenants in this Agreement, or breaches any material provision of this Agreement, and such default or breach continues uncured for a period of thirty (30) days after delivery of written notice thereof to 704GAMES;

(b) if 704GAMES (i) discontinues its business as now conducted, (ii) sells all or substantially all of its assets, (iv) sells or grants rights to any product line or division that includes any of the Licensed Products, or (v) directly or indirectly assigns, transfers, sublicenses or encumbers any of its rights under this Agreement in violation of the terms hereof without the prior express written consent of NTP;

Any such termination rights will be in addition to, and not in lieu of, any other rights and remedies, whether legal or equitable, to which NTP may be entitled.

8.3 *Repetitive Breaches.* Notwithstanding the foregoing, if 704GAMES has breached a material provision of this Agreement and been given the opportunity to cure such breach and 704GAMES breaches the same provision within a 90-day period, NTP may immediately terminate this Agreement without providing any additional notice or opportunity to cure.

8.4 *Effect of Termination.*

(a) 704GAMES Obligations. Upon termination by NTP pursuant to this Section 8 or upon expiration of this Agreement, 704GAMES shall: (i) cease production and support of the Licensed Products, (ii) instruct its digital distribution partners to remove Licensed Products from all distribution channels no later than ten (10) business days before the end of the Term or after termination, (iii) pay all unpaid Royalties, indemnification amounts and other sums due hereunder (and such obligation shall survive termination of this Agreement), (iv) immediately deliver to NTP a complete schedule of all inventory of the Licensed Products; and (v) either (x) cause all Licensed Rights to be removed from the Licensed Products and provide NTP with satisfactory evidence of such removal; or (y) in the event that such removal of Licensed Rights is not feasible destroy all products, packages and other materials in its possession bearing Licensed Rights not previously sold to NTP or NTP Licensors, as applicable, and provide satisfactory evidence to NTP of such destruction. 704GAMES will immediately deliver NTP a statement showing the number and description of the Licensed Products on hand or in process. NTP shall have the right to take a physical inventory to verify such inventory and statement, said inventory to be conducted at 704GAMES' premises during normal business hours and upon at least ten (10) business days advance written notice.

(c) Surviving Obligations. (i) The termination by NTP or expiration of this Agreement shall not relieve 704GAMES of any obligation due to NTP or the NTP Licensors under this Agreement arising or accrued prior to or as of the date of such termination or expiration, including without limitation the obligation to pay Royalties and indemnification amounts, reporting obligations, and restrictions set forth herein; (ii) Termination by 704GAMES or expiration of this Agreement shall not relieve NTP of any obligation to 704GAMES under this Agreement including, without limitation, the obligation to pay indemnification amounts that may arise.

9. Intentionally Deleted

10. REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH LAWS

10.1 *General.* 704GAMES and NTP, on behalf of itself and each NTP Licensor, represents and warrants to the other that: (i) it has, and will maintain at all times during this Agreement, all material federal, state and local governmental permits and licenses required in order to conduct its business as contemplated hereunder; (ii) it is duly organized and validly existing under the laws of the state of its organization; and (iii) it has full power and authority to enter into and perform this Agreement and the person or persons executing this Agreement have been duly authorized to do so; and (iv) (v) the execution, delivery and performance of this Agreement shall not conflict with, violate or constitute a default under, any other contracts, agreements or undertakings to which it is a party or by which it is bound. **EXCEPT AS OTHERWISE SET FORTH OR REFERENCED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED.**

10.2 *Additional Representations and Warranties of 704GAMES.* 704GAMES further represents and warrants the following:

(a) The Licensed Products and 704GAMES' activities to sell and distribute the Licensed Products, will conform at all times to all applicable federal, state and local laws, rules, regulations, ordinances and other enactments and industry standards, including, but not limited to, those relating to product safety and child labor laws.

(b) The Licensed Products will be merchantable and fit for the purpose for which they are intended and will not be defective. The Licensed Products will be of a standard of quality at least as high as that of the builds made available for NTP's inspection and approval so as to be suited to their exploitation and to the protection and enhancement of the Licensed Rights and goodwill pertaining thereto.

11. CONFIDENTIALITY.

Each party hereto agrees to take normal and reasonable precautions and exercise due care to maintain the confidentiality of all non-public Confidential Information received by such party in connection with this Agreement and agrees and undertakes that it shall not disclose to any third party (including without limitation any fan or member clubs, other licensees, sanctioning bodies, trade associations, industry groups, publications or other persons or entities) or use any such information for any purpose or in any manner other than pursuant to the terms contemplated by this Agreement, without the express prior written consent of the disclosing party. For purposes of this Agreement, "Confidential Information" shall mean information, documents and other tangible things, provided by either party to the other, in whatever form, whether alone or in its compiled form and whether marked as confidential or not, relating to the party's business and marketing, including without limitation, the party's financial information, personal information, customer lists, product plans and marketing plans, the terms and conditions of this Agreement, any materials provided pursuant to or in accordance with this Agreement, and any financial information regarding NTP licensing (including without limitation, royalty rates, royalties, minimums, guarantees, distribution channels, volume of sales, breakdown of sales by product or SKU or other such information). Any party may disclose Confidential Information required to be disclosed (i) pursuant to subpoena or other court process; provided that the party required to make such disclosure gives the other party written notice of the information to be disclosed as far in advance of its disclosure as is practicable and uses its reasonable good faith Commercially Reasonable Efforts to obtain assurance that such information will be accorded confidential treatment, (ii) when required to do so in accordance with the provisions of any applicable law or regulations, including the regulations of any national securities exchange or trading market on which the securities of such party or its Affiliate Companies are traded, to such persons to whom such disclosure is so required, (iii) at the express direction of any agency of any State of the United States of America or of any other jurisdiction in which such party conducts its business, to such agency, (iv) to such person's independent auditors and other professional advisors that have a reasonable need or basis for access thereto; provided they agree to maintain confidentiality, (v) subject to continued confidentiality, and only on a "need to know" basis and to the extent reasonably necessary, to such party's parent companies or equity owners, and in the case of NTP and the NTP Licensors, to their sponsors and Drivers, (v) to the extent that such information is already known to the recipient or otherwise in the public domain, and (vi) in order to protect or enforce their rights hereunder. The foregoing confidentiality provision shall survive the termination or expiration of this Agreement. Notwithstanding anything to the contrary set forth herein or any other document, Licensee and/or its direct and indirect parent entities shall have the right to disclose this Agreement, including any amendments or modifications thereof, and their respective terms and conditions as required by the applicable securities laws, rules and regulations, provided that Licensee and/or its direct and indirect parent entities seek confidential treatment of certain business terms and proprietary information of the Agreement as mutually agreed upon by the parties.

12. Intentionally Deleted.

13. INDEMNIFICATION AND INSURANCE

13.1 *Indemnification by 704GAMES.* Except as provided at [Section 13.2](#), 704GAMES shall be solely responsible for all liability arising out of the distribution and sale of the Licensed Products. 704GAMES agrees to indemnify, defend, release and hold harmless NTP and its NTP Licensors, sponsors and drivers and their respective officers, directors, employees and agents as well as any affiliates or subsidiaries of the foregoing (the “[NTP Indemnified Parties](#)”) from any and all claims, losses, suits, demands, liability, cause of action, injury or damages (including, but not limited to, attorneys’ fees, expert witness fees, costs and expenses, fines, penalties or sanctions) of any kind or nature whatsoever, including death, whether such claim be for breach of warranty, product liability, or for any other alleged claim, and whether such claim be based in negligence, strict liability, or under any other theory, against any NTP Indemnified Party to the extent arising out of: (i) the Licensed Products (other than related to the Licensed Rights), (ii) the actions or inactions of 704GAMES in accordance with this Agreement (except to the extent such actions or inactions are expressly authorized by and in accordance with this Agreement), (iii) any claims of unauthorized use of or infringement of any trademark, service mark, copyright, patent, process, method or device or other proprietary right by 704GAMES in connection with the designs of or otherwise related to the Licensed Products (excluding the Licensed Rights), (iv) false advertising, fraud, misrepresentation related to the Licensed Products, (v) unauthorized use of the Licensed Rights by 704GAMES, (vi) 704GAMES’ non-compliance with any applicable laws or rules or regulations; (vii) breach by 704GAMES of its representations or warranties provided under this Agreement; or (viii) libel or slander against, or invasion of rights of privacy or publicity of, any third party by or on behalf of 704GAMES. The indemnification hereunder shall survive the expiration or termination of this Agreement.

704GAMES will assume on behalf of the NTP Indemnified Parties the defense of any action at law or suit in equity or any other proceeding which may be brought against any NTP Indemnified Party upon such indemnified claim by an unrelated third party. This indemnity shall continue in force notwithstanding the termination or expiration of this Agreement. NTP agrees to use good faith Commercially Reasonable Efforts to cooperate and consult, and to cause any applicable NTP Indemnified Party to cooperate and consult, with 704GAMES (at 704GAMES’ expense) with respect to any third-party indemnity claim contemplated by this [Section 13.1](#).

13.2 *Indemnification by NTP.* NTP agrees to defend, indemnify, release and hold harmless 704GAMES, its Affiliated Companies and their officers, directors, employees and agents (the “704GAMES Indemnified Parties”) from any and all claims, losses, suits, demands, liability, cause of action, injury or damages (including, but not limited to, attorney’s fees, expert witness fees, costs and expenses) against any 704GAMES Indemnified Party to the extent arising out of a breach by NTP of its representations or warranties provided under this Agreement. In the event a third party should file within the United States any claim against 704GAMES for copyright or trademark infringement or unauthorized use of any element(s) of the Licensed Rights, solely on account of 704GAMES’ proper and authorized use of the Licensed Rights in the United States in full and complete accordance with the terms hereof, 704GAMES shall promptly notify NTP of such claim, then NTP (and/or the appropriate NTP Licensors as the case may be) shall undertake defense of such claim through counsel of its choosing in NTP’s sole discretion and at its, or, at NTP’s (and/or the appropriate NTP Licensors or such entity’s licensors’) expense as to the Licensed Right, and shall take whatever steps NTP deems necessary or appropriate to defend or settle and finally dispose of such claim, provided that no such settlement shall diminish or abridge any right of 704GAMES under this Agreement without the prior written consent of 704GAMES, not to be unreasonably withheld, and shall hold 704GAMES harmless from all costs, expenses and losses arising out of such claims and the disposition thereof. NTP and/or the appropriate NTP Licensors have received indemnification from their respective licensors and reserve the right to seek recourse against such third-party licensors for any claim involving such licensors’ marks; provided, however, that such recourse shall have no bearing upon the obligation of NTP under this provision, which obligation shall not be conditional upon or affected by the existence or non-existence of any obligation between NTP and any other party or entity. If the claim is disposed of by agreed or court-imposed suspension of distribution of Licensed Products, 704GAMES, upon notice from NTP, shall suspend its distribution of the affected Licensed Products, subject to the foregoing provisions. This indemnity shall continue in force notwithstanding the termination or expiration of this Agreement. 704GAMES agrees to use good faith Commercially Reasonable Efforts to cooperate and consult, and to cause any applicable 704GAMES Indemnified Party to cooperate and consult, with NTP (at NTP’s expense) with respect to any third-party indemnity claim contemplated by this Section 13.2.

13.3 *Insurance.* Upon execution of this Agreement, 704GAMES shall obtain from an insurer with an A.M. Best Company rating of A.VIII or higher that is satisfactory to NTP, at 704GAMES’ own expense, and maintain in full force and effect throughout the Term and during any subsequent period when the Licensed Products are in distribution by 704GAMES and for a one-year period thereafter, products and contractual liability, completed operations, advertiser’s and comprehensive liability insurance policies on an occurrence basis with respect to the Licensed Products and shall name the NTP Indemnified Parties as additional insureds therein. Such insurance shall be primary and not contributory to any other applicable insurance maintained by the additional insureds and shall provide the NTP Indemnified Parties protection against all aforementioned claims, damages, etc. arising from Section 13.1 above. The amount of coverage of each policy should be a minimum of Five Million Dollars (\$5,000,000) combined single limit, and a per annum aggregate limitation of not less than Five Million Dollars (\$5,000,000). Each policy shall provide for thirty (30) days’ notice to NTP from the insurer by registered or certified mail, return receipt requested, in the event of any modification, cancellation or termination. 704GAMES agrees to furnish NTP a Certificate of Insurance evidencing same upon full execution of this Agreement. The amount of insurance required hereunder is only intended as a minimum and not intended to limit the applicability of 704GAMES’ insurance with respect to insurable matters hereunder.

14. LIMITATION OF LIABILITY

Neither NTP, the NTP Licensors nor any of their respective affiliates, licensors, or sponsors, nor their respective directors, officers, employees, principals, partners, agents, successors or assigns, or anyone acting by or with their authority or on their behalf, nor 704GAMES or such related entities shall be liable to the other or any of its affiliates, subsidiaries, or successors or their respective directors, officers, employees, principals, partners, agents, successors or assigns, or anyone acting by or with their authority or on their behalf for any **CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES** as a result of a breach or a claimed breach of this Agreement.

15. MISCELLANEOUS

15.1 *Notices.* Except as otherwise set forth herein, all notices or submissions to be made or delivered by either party will be sent by U.S. first class mail, postage prepaid, overnight delivery service, email, or by facsimile or personally delivered to the appropriate party at its respective address set forth below:

FOR NTP:

For Notices Purposes:

NASCAR Team Properties
550 South Caldwell Street, 2000
Charlotte, NC 28202
Attn: NTP Administrator
Fax: 704-348-9696
Phone: 704-348-9600
Email: mmalayter@nascar.com

with copy to:

NASCAR Team Properties
550 South Caldwell Street, 2000
Charlotte, NC 28202
Attn: Senior Assistant General Counsel
Fax: 704-348-9696
Phone: 704-348-9600
Email: jweaver@nascar.com

For Payment of Royalties:

Attn: NTP Accounting
Company Name: NASCAR, LLC
Street Address: One Daytona Blvd.
City, Stat, Zip: Daytona Beach, Florida 33314
Phone: 386-253-0661
Fax: 386-681-6884

For 704GAMES:

704Games LLC
5972 NE 4th Avenue
Miami, FL 33137
Attention: Stephen Hood, Manager
Phone: 305-507-8799
Email: sh@motorsportgames.com

or to other such address as the person to whom notice is to be given may have previously furnished to the other in writing in the manner set forth herein, provided that notice of a change of address shall be deemed given only upon receipt. Delivery is deemed to have occurred upon receipt or first properly attempted delivery.

15.2 *Modification.* None of the terms of this Agreement may be waived or modified except as expressly agreed to in writing by all 704GAMES and NTP.

15.3 *Waiver.* Any party's failure to enforce, or delay in enforcing, any of its rights under this Agreement shall not be deemed a waiver of any of those rights or any other rights under this Agreement.

15.4 *Severability.* The determination that any part of this Agreement is declared void or of no effect shall not invalidate this Agreement, and either 704GAMES or NTP, at its option, may submit alternative provisions to be agreed upon by both parties.

15.5 *Relationship of the Parties.* The relationship between the parties hereto is solely that of independent contractors, and nothing herein shall be deemed or construed to create any franchise, joint venture, partnership or any other relationship. Nothing in this Agreement is intended by the parties hereto to create a fiduciary relationship between them, nor to constitute one party an agent, legal representative, subsidiary, franchise, joint venture, partner, employee or servant of another party for any purpose whatsoever. It is understood and agreed that each party is an independent contractor of the other and is in no way authorized to make any contract, warranty or representation or to create any obligation on behalf of the other party.

15.6 *Intended Third Party Beneficiaries.* The parties acknowledge and agree that the NTP Licensors are direct and intended third party beneficiaries under this Agreement and, as such, are each entitled to all rights and protections afforded to NTP hereunder solely with respect to their own Licensed Rights and may independently enforce the obligations of 704GAMES hereunder pertaining solely to the permitted uses of their respective Licensed Rights and matters related to insurance and indemnity as against 704GAMES or any entity acting by, through or on behalf of 704GAMES.

15.7 *Prevailing Parties.* In the event of any breach or threatened breach of this Agreement by either party or infringement of any rights of NTP and/or NTP Licensors, if either party employs attorneys or incurs other expenses, the non-prevailing party shall reimburse the prevailing party for its reasonable attorney's fees and other expenses.

15.8 *Governing Laws.* This Agreement and the terms and provisions of this Agreement shall be interpreted and construed in accordance with, governed by, and enforced in accordance with the laws of the State of North Carolina without regard to principles of conflicts of law. Any litigation, action, or proceeding arising out of or relating to this Agreement shall be instituted only in the state or federal courts in the state of North Carolina, Mecklenburg County. 704GAMES, NTP and the NTP Licensors each hereby waive any objection which it might have now or hereafter to the venue of any such litigation, action or proceeding, submits to the jurisdiction of any such court and, waives any claim or defense of inconvenient forum. 704GAMES, NTP and the NTP Licensors each consent to service of process by certified or registered mail, return receipt requested, at their respective address and expressly waives the benefit of any contrary provision of law.

15.9 *Assignment.*

(a) 704GAMES shall not assign, sublicense or subcontract its rights or delegate its obligations under this Agreement, directly or indirectly, in whole or in part (whether by operation of law, in bankruptcy or otherwise) without the prior written consent of NTP. Any assignment or attempted assignment pursuant to the change of control of 704GAMES or merger or the sale of the stock, assets or business of 704GAMES or sale of a product line or division that includes rights to any of the Licensed Products shall not be effective without the prior written consent of NTP. Any assignment in violation of this Section 15.9 shall be null and void.

(b) 704GAMES understands and acknowledges that NTP has relied on 704GAMES' particular skill and knowledge and unique abilities with respect to the Licensed Products. In an insolvency proceeding, this Agreement shall be considered as an executory contract that may not be assumed or assigned without the prior written consent of NTP and that terminates pursuant to Section 365(3)2 of the Bankruptcy Code. The parties acknowledge that any delay by 704GAMES or any trustee to comply with all terms hereof will materially harm NTP and its NTP Licensors and interfere with NTP's and its NTP Licensors' ability to exploit the Licensed Rights.

(c) Upon written notice to 704GAMES, NTP may freely assign this Agreement to any successor in interest or acquirer of NTP, including without limitation, collaterally assign its financial benefits hereunder; provided that the assignee of such interest shall acquire all tangible and intangible assets of NTP with respect to this Agreement and Video Game and Digital Series and be required to assume in writing all obligations undertaken by NTP in this Agreement.

15.10 *Counterparts*. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

15.11 *Survival*. The terms, provisions, covenants, representations, warranties and indemnities contained in this Agreement which by their nature, sense and context survive or are expressly intended to survive the expiration or termination of this Agreement will so survive and continue in full force and effect until they are satisfied or by their nature expire.

15.12 *Affiliates and Subsidiaries*. This Agreement is entered into solely between, and may be enforced only by, 704GAMES, NTP and each NTP Licensor, and this Agreement does not create any rights in third parties, including suppliers, customers or subcontractors of a party, or to create any obligations of a party to any such third parties. With respect to any rights or privileges available or reserved to a NTP Licensor under this Agreement, the term NTP Licensor shall include any of its current or future Affiliated Companies; provided, however that NTP and each NTP Licensor shall be responsible for the compliance by its current and future (after such time it becomes an Affiliate) Affiliated Companies with the terms and conditions of this Agreement, and 704GAMES acknowledges and agrees that any claim or action it may have under this Agreement, whether arising from the acts or omissions of a NTP Licensor or any of its current or future (after such time it becomes an Affiliate) Affiliated Companies, shall be brought only against NTP and such NTP Licensor.

15.13 *Acknowledgment of Series Trust*. 704GAMES acknowledges that: (i) NTP is a “series” trust within the meaning of Sections 3804 and 3806(b)(2) of the Delaware Statutory Trust Act; and (ii) the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to NTP hereunder shall be enforceable against the assets of NTP which have been allocated to “Video Game and Digital Series” thereof and not the assets of the Trust generally or any other series of the Trust.

15.14 *Entire Agreement*. This Agreement and all exhibits referenced herein or attached hereto set forth the entire Agreement between the parties and supersedes all prior agreements, representations, oral statements, and understandings. There are no unwritten oral agreements, promises, representations, agreements or understandings between the parties other than those contained herein. Each party hereto, including the NTP Licensors, is a sophisticated business entity experienced in licensing activity and has had the opportunity to negotiate the Agreement and to be represented by legal counsel in connection therewith so no legal or other presumptions against the drafting party of the Agreement concerning its construction, interpretation or otherwise shall accrue to the benefit of any party to this Agreement.

//Signatures on the following page//

IN WITNESS WHEREOF, this Agreement has been executed by an authorized representative of each party as of the Effective Date.

LICENSOR:

LICENSEE:

**NASCAR TEAM PROPERTIES SOLELY FOR AND WITH
RESPECT TO ITS VIDEO GAME AND DIGITAL SERIES**

704GAMES LLC

By: /s/ Megan Malayter

By: /s/ Stephen Hood

Print Name: Megan Malayter

Print Name: Stephen Hood

Title: Trustee

Title: Manager

Date: October 3, 2023

Date: October 3, 2023

EXHIBIT A

DEFINED TERMS

“**704GAMES Indemnified Parties**” has the meaning provided in Section 13.2 of this Agreement.

“**Affiliate Company**” means any subsidiary, parent, or entity affiliated with, controlling or under common control with, any party to this Agreement (including the NTP Licensors), and any Related Person of any of the foregoing. “Related Person” means any officer, director, employee, agent, or shareholder of any party to this Agreement (including the NTP Licensors) or their respective Related Companies, who owns all or a portion of its stock, bonds, debentures, or assets or who is a partner, joint venturer or shares in the ownership or distribution of its cash flow, revenue, profits or assets.

“**Commercially Reasonable Efforts**” means reasonable and good-faith efforts to accomplish the objectives that are consistent with the general practices of the respective parties under such applicable circumstances in order to achieve the desired result(s) in a reasonable, efficient and cost-effective manner within the applicable time period, but not requiring a party to: (A) take any actions that would result in a materially adverse change in the benefits to such party to this Agreement or the transactions contemplated hereby; (B) take any actions that would be commercially unreasonable under the circumstances or require the promising party to take any actions that would, individually or in the aggregate, cause the promising party to pay additional consideration (or forego consideration) outside the ordinary course of business unless additional consideration is expressly contemplated by the terms of this Agreement; (C) take any action that would violate any law, order, rule or regulation to which the promising party is subject; or (D) initiate litigation or arbitration.

“**Driver(s)**” means any current or historical driver of a race car for a Race Team, together with any replacement or substitute drivers, which the Race Team has licensed hereunder.

“**Licensed Products**” means the games and DLC, included in the table below, created in the Original Agreement which bear the Licensed Rights.

NASCAR '15
NASCAR Heat Evolution 2016
NASCAR Heat Evolution 2017
NASCAR Heat 2 2017
NASCAR Heat 2 Season Update 2018
NASCAR Heat 3 2018
NASCAR Heat 3 Season Update 2019
NASCAR Heat 4 2019
NASCAR Heat Mobile 2020
NASCAR Heat 5 2020
Nascar Ignition 21
Nascar Ignition 21 - DLC
NASCAR Heat Ultimate Edition +
NASCAR Rivals
NASCAR Rivals - DLC

“**Licensed Rights**” means intellectual property of Video Game and Digital Series used to create the Licensed Products, which included, without limitation, all relevant copyrights, trademarks, trade dress, logos, names, likenesses, signatures, artwork, primary and special paint schemes, vehicle designs, visual representations, helmets, uniforms, photographs and accessories and all other paraphernalia associated therewith, as provided or permitted by NTP Licensors (e.g., NASCAR and/or NASCAR Teams) and each of their sponsors. This definition shall be amended during the Term (either by way of addition to or removal from the then-current rights grant to NTP’s Video Game and Digital Series) by agreement of the parties except as imposed upon NTP by NTP Licensors. For additional clarity, the Licensed Rights shall include the NASCAR bar logo, NASCAR word mark, and NASCAR Heat logo and word mark used as a primary brand of the Licensed Product (e.g., “NASCAR Heat,” “NASCAR Heat Mobile,” and “NASCAR Heat 2”), and the tagline, “Officially Licensed by NASCAR.”

“**NASCAR**” means the National Association for Stock Car Auto Racing.

“**Net Sales**” means the bona fide total gross U.S. dollars invoice amount billed to purchasers or for payments received, whichever is greater for Licensed Products, including the royalty amount, less royalty payments payable on such revenues to platform owners (e.g., Sony, Nintendo, Microsoft, etc.), less Licensed Product duplication costs, less sales tax to the extent actually included in the invoice amount, actual trade discounts and allowance in the ordinary course and permitted actual returns and/or actual allowance in lieu of returns in the ordinary course of 704GAMES’ business as supported by credit memoranda issued to customers. No deductions shall be made for direct or indirect costs incurred in manufacturing, selling, marketing and/or advertising (including cooperative and promotional allowances) or distributing the Licensed Product, nor shall any deduction be made for uncollectible accounts, cash discounts, similar allowances or any other amounts. 704GAMES shall be solely responsible for any and all taxes, customs, duties, levies, import or other charges on the Licensed Products. Net Sales resulting from sales made to any direct or indirect Affiliate Company of Licensee shall be computed based on the regular selling prices in the industry. If such Affiliate Company is a reseller in the industry, for the purpose of determining Net Sales, the sales price shall be the higher of the sales price charged to such Affiliate Company or the price charged in the industry by such Affiliate Company.

“**NTP Indemnified Parties**” has the meaning provided in [Section 13.1](#) of this Agreement.

“**NTP Licensors**” means NASCAR, the Teams, Drivers and any other Persons that have licensed or otherwise permitted NTP to grant their Licensed Rights solely as it relates to the Licensed Products.

“**Person**” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or other legal entity.

“**Royalty(ies)**” means, as set forth in [Section 7.1](#) of the Agreement, the collective reference to royalties payable to NTP by 704GAMES or the specific reference to a certain royalty for a Licensed Product.

“**Team(s)**” means those organizations providing Licensed Rights.

“**Territory**” means the definition as referenced in [Section 3](#) of this Agreement.

“**Video Game and Digital Series**” means that legally designated separate series created and maintained by NTP within the meaning of Sections 3804 and 3806(b)(2) of the Delaware Statutory Trust Act, and which is known as the “Video Game and Digital Series” subject to [Section 15.14](#) hereof.



EXCLUSIVE SIMULATION-STYLE NASCAR® VIDEO GAME LICENSE SOLD TO IRACING

MIAMI, FL – October 5, 2023 – **Motorsport Games Inc. (NASDAQ: MSGM)** (“**Motorsport Games**”), is announcing today the sale and transfer of NASCAR Team Properties’ (NTP) exclusive license for NASCAR® themed simulation-style console racing games.

The sale and transfer, approved by NTP, will see the license transfer from 704Games LLC (“704Games”), a wholly-owned subsidiary of Motorsport Games, to iRacing.com Motorsport Simulations, LLC (“iRacing”) who will begin developing the next NASCAR console game.

“After careful consideration, it became apparent that it is in the best interest of Motorsport Games to concentrate our resources around alternative assets and revenue growth opportunities. We believe that this is a continued shift toward quality,” said Stephen Hood, Chief Executive Officer at Motorsport Games.

“This sale to iRacing, a preferred NASCAR partner, is expected to be beneficial to all parties. We believe it will allow us to rebalance our immediate cash needs, reduce our contractual and financial obligations and double-down on near term revenue generating releases already in advanced development” continued Hood. “We would like to thank our partners at NTP and fans of the franchise over the years and wish iRacing the best with their future plans.”

“This mutual agreement is in the best interest of all parties involved and allows for a new crown jewel in our expanding video game lineup,” said Nick Rend, Managing Director esports and gaming at NASCAR. “We thank Motorsport Games for its efforts over the years and will work diligently with iRacing to deliver a console game that’s exciting for the gaming community and allows our fans to connect with the sport in an impactful, meaningful way.”

Current NASCAR titles, including NASCAR Heat 5, which recently received the “Next-Gen Car Update” DLC, and Nintendo Switch title NASCAR Rivals will remain supported by Motorsport Games and available for the remainder of 2023 and throughout 2024.

Additionally, as part of ongoing efforts to achieve long-term financial sustainability and growth, Motorsport Games has committed to redefining its product and development strategy and will start with a comprehensive commercial review of all projects in its portfolio, which may result in additional restructuring efforts to those already implemented under the previously announced 2022 Restructuring program. This includes a detailed review of the INDYCAR game project, which is under development by the Motorsport Games Australia studio and Traxion.GG, a UK based media website and community focused on racing games and related esports.

Stephen Hood added, “We believe that the sale of the NASCAR license is a significant accelerator to a planned change of direction. With proprietary technology, industry leading talent, handpicked advisors, stronger processes, and a change of culture we expect to deliver on the promise we see throughout our company.”

About Motorsport Games:

Motorsport Games, a Motorsport Network company, is a racing game developer, publisher and esports ecosystem provider of official motorsport racing series throughout the world. Combining innovative and engaging video games with exciting esports competitions and content for racing fans and gamers, Motorsport Games strives to develop racing games that are authentically close to reality. The Company is the officially licensed video game developer and publisher for iconic motorsport racing series including the 24 Hours of Le Mans, INDYCAR, and the British Touring Car Championship (“BTCC”). Motorsport Games also owns the industry leading rFactor 2 and KartKraft simulation platforms. rFactor 2 also serves as the official sim racing platform of Formula E, while also powering F1 Arcade through a partnership with Kindred Concepts. Motorsport Games is also an award-winning esports partner of choice for the 24 Hours of Le Mans, Formula E and BTCC. Motorsport Games is building a virtual racing ecosystem where each product drives excitement, every esports event is an adventure and every race inspires.



Forward-Looking Statements:

Certain statements in this press release which are not historical facts are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, and are provided pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Any statements in this press release that are not statements of historical fact may be deemed forward-looking statements. Words such as “continue,” “will,” “may,” “could,” “should,” “expect,” “expected,” “plans,” “intend,” “anticipate,” “believe,” “estimate,” “predict,” “potential,” and similar expressions are intended to identify such forward-looking statements. These forward-looking statements include, but are not limited to, statements concerning whether it is in the best interest of Motorsport Games to sell and transfer of NASCAR license, whether it is in the best interest of Motorsport Games to concentrate on its other resources, assets and/or revenue growth opportunities, whether such pivot is a continuing shift toward quality, whether shift toward quality, if achieved, would be continued or material, whether this sale to iRacing would allow Motorsport Games to rebalance its short-term cash needs and/or reduce contractual and financial obligations and/or double-down on near term revenue generating releases already in advanced development, whether the foregoing activities, if effectuated, would be beneficial for Motorsport Games and its financial and/or liquidity position, whether Motorsport Games will succeed in supporting and/or keeping available the current NASCAR titles, including NASCAR Heat 5, which recently received the “Next-Gen Car Update” DLC, and Nintendo Switch title NASCAR Rivals for the remainder of 2023 and throughout 2024, whether Motorsport Games will be successful in its ongoing efforts to achieve long-term financial sustainability and growth, whether redefining Motorsport Games’ product and development strategy would be achieved, whether Motorsport Games’ review of all projects in its portfolio will be beneficial, whether such review would result in additional restructuring efforts to those already implemented under the previously announced 2022 Restructuring program, whether such additional restructuring efforts would be beneficial for Motorsport Games and whether Motorsport Games’ review of the INDYCAR game project would be beneficial for Motorsport Games and its customers. All forward-looking statements involve significant risks and uncertainties that could cause actual results to differ materially from those expressed or implied in the forward-looking statements, many of which are generally outside the control of Motorsport Games and are difficult to predict. Examples of such risks and uncertainties include, without limitation: difficulties, delays in or unanticipated events that may impact the timing and expected benefits of Motorsport Games sale of NASCAR license and/or Motorsport Games concentrating resources around its core assets and/or revenue growth opportunities, whether such concentration will be a continued shift toward quality, whether the sale of the NASCAR license will become a significant accelerator to Motorsport Games’ planned change of direction, whether Motorsport Games’ proprietary technology, talent, advisors, processes, and a change of culture would deliver benefits to Motorsport Games and/or improve its financial and/or liquidity position, whether Motorsport Games’ talent is industry leading and Motorsport Games’ processes are stronger, and whether Motorsport Games will be successful in achieving long term financial sustainability and growth. Factors other than those referred to above could also cause Motorsport Games’ results to differ materially from expected results. Additional factors that could cause actual results to differ materially from those expressed or implied in the forward-looking statements can be found in Motorsport Games’ filings with the Securities and Exchange Commission (the “SEC”), including its Annual Report on Form 10-K for the fiscal year ended December 31, 2022, its Quarterly Reports on Form 10-Q filed with the SEC during 2023, as well as in its subsequent filings with the SEC. Motorsport Games anticipates that subsequent events and developments may cause its plans, intentions and expectations to change. Motorsport Games assumes no obligation, and it specifically disclaims any intention or obligation, to update any forward-looking statements, whether as a result of new information, future events or otherwise, except as expressly required by law. Forward-looking statements speak only as of the date they are made and should not be relied upon as representing Motorsport Games’ plans and expectations as of any subsequent date. Additionally, the business and financial materials and any other statement or disclosure on, or made available through, Motorsport Games’ website or other websites referenced or linked to this press release shall not be incorporated by reference into this press release.



Website and Social Media Disclosure:

Investors and others should note that we announce material financial information to our investors using our investor relations website (ir.motorsportgames.com), SEC filings, press releases, public conference calls and webcasts. We use these channels, as well as social media and blogs, to communicate with our investors and the public about our company and our products. It is possible that the information we post on our websites, social media and blogs could be deemed to be material information. Therefore, we encourage investors, the media and others interested in our company to review the information we post on the websites, social media channels and blogs, including the following (which list we will update from time to time on our investor relations website):

Websites

motorsportgames.com
traxion.gg
motorsport.com

Social Media

Twitter: [@msportgames](https://twitter.com/msportgames) & [@traxiongg](https://twitter.com/traxiongg)
Instagram: [msportgames](https://www.instagram.com/msportgames) & [traxiongg](https://www.instagram.com/traxiongg)
Facebook: [Motorsport Games](https://www.facebook.com/MotorsportGames) & [traxiongg](https://www.facebook.com/traxiongg)
LinkedIn: [Motorsport Games](https://www.linkedin.com/company/MotorsportGames)
Twitch: [traxiongg](https://www.twitch.tv/traxiongg)
Reddit: [traxiongg](https://www.reddit.com/user/traxiongg)

The contents of these websites and social media channels are not part of, nor will they be incorporated by reference into, this press release.

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MOTORSPORT GAMES INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS

	Year Ended December 31, 2022		
	Motorsport Games Inc.	Divestiture of the NASCAR License	Pro Forma
Revenues	\$ 10,324,559	\$ -	\$ 10,324,559
Cost of revenues [1]	4,960,317	-	4,960,317
Gross profit	5,364,242	-	5,364,242
Operating expenses:			
Sales and marketing [2]	6,172,324	-	6,172,324
Development [3]	10,417,260	-	10,417,260
General and administrative [4]	13,764,177	-	13,764,177
Impairment of goodwill	4,788,270	-	4,788,270
Impairment of intangible assets	4,828,478	-	4,828,478
Gains from sale of intangible assets	-	(2,766,094)(a)	(2,766,094)
Depreciation and amortization	420,137	(226,250)(b)	193,887
Total operating expenses	40,390,646	(2,992,344)	37,398,302
Loss from operations	(35,026,404)	2,992,344	(32,034,060)
Interest expense [5]	(1,148,204)	-	(1,148,204)
Other (loss) income, net	(665,846)	-	(665,846)
Net loss	(36,840,454)	2,992,344	(33,848,110)
Less: Net loss attributable to non-controlling interest	(849,649)	-(c)	(849,649)
Net loss attributable to Motorsport Games Inc.	\$ (35,990,805)	\$ 2,992,344	\$ (32,998,461)
Net loss attributable to Class A common stock per share:			
Basic and diluted	\$ (30.73)		\$ (28.17)
Weighted-average shares of Class A common stock outstanding:			
Basic and diluted	1,171,323		1,171,323

[1] Includes related party costs of \$6,228 for the year ended December 31, 2022.

[2] Includes related party expenses of \$565,759 for the year ended December 31, 2022.

[3] Includes related party expenses of \$76,093 for the year ended December 31, 2022.

[4] Includes related party expenses of \$394,358 for the year ended December 31, 2022.

[5] Includes related party expenses of \$75,616 for the year ended December 31, 2022.

The accompanying notes are an integral part of these consolidated financial statements.

MOTORSPORT GAMES INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED CONSOLIDATED STATEMENT OF OPERATIONS

	Six Months Ended June 30, 2023		
	Motorsport Games Inc.	Divestiture of the NASCAR License	Pro Forma
Revenues	\$ 3,468,485	\$ -	\$ 3,468,485
Cost of revenues [1]	2,114,903	-	2,114,903
Gross profit	1,353,582	-	1,353,582
Operating expenses:			
Sales and marketing [2]	1,053,198	-	1,053,198
Development [3]	4,184,902	-	4,184,902
General and administrative [4]	5,933,343	-	5,933,343
Impairment of goodwill	-	-	-
Impairment of intangible assets	4,004,627	-	4,004,627
Gains from sale of intangible assets	-	(2,879,219)(a)	(2,879,219)
Depreciation and amortization	202,208	(113,125)(b)	89,083
Total operating expenses	15,378,278	(2,992,344)	12,385,934
Loss from operations	(14,024,696)	2,992,344	(11,032,352)
Interest expense [5]	(443,870)	-	(443,870)
Other (loss) income, net	1,008,492	-	1,008,492
Net loss	(13,460,074)	2,992,344	(10,467,730)
Less: Net loss attributable to non-controlling interest	(188,103)	-(c)	(188,103)
Net loss attributable to Motorsport Games Inc.	\$ (13,271,971)	\$ 2,992,344	\$ (10,279,627)
Net loss attributable to Class A common stock per share:			
Basic and diluted	\$ (5.42)		\$ (4.20)
Weighted-average shares of Class A common stock outstanding:			
Basic and diluted	2,448,131		2,448,131

[1] Includes related party costs of \$0 for the six months ended June 30, 2023.

[2] Includes related party expenses of \$17,076 for the six months ended June 30, 2023.

[3] Includes related party expenses of \$30,923 for the six months ended June 30, 2023.

[4] Includes related party expenses of \$181,876 for the six months ended June 30, 2023.

The accompanying notes are an integral part of these consolidated financial statements.

MOTORSPORT GAMES INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONDENSED CONSOLIDATED BALANCE SHEET (UNAUDITED)

	As of June 30, 2023		
	MOTORSPORT GAMES Inc.	Divestiture of the NASCAR License	Pro Forma
Assets			
Current assets:			
Cash and cash equivalents	\$ 1,966,553	\$ 3,843,885(a)	\$ 5,810,438
Accounts receivable, net of allowances of \$2,532,383	1,018,784	-	1,018,784
Due from related parties	68,421	-	68,421
Prepaid expenses and other current assets	1,043,214	500,000(b)	1,543,214
Total Current Assets	4,096,972	4,343,885	8,440,857
Property and equipment, net	394,608	-	394,608
Operating lease right of use assets	300,265	-	300,265
Goodwill	-	-	-
Intangible assets, net	8,544,394	(1,684,654)(c)	6,859,740
Total Assets	<u>\$ 13,336,239</u>	<u>\$ 2,659,231</u>	<u>\$ 15,995,470</u>
Liabilities and Stockholders' Equity			
Current liabilities:			
Accounts payable	876,198	-	876,198
Accrued expenses and other liabilities	3,359,598	(333,113)(d)	3,026,485
Due to related parties	32,129	-	32,129
Purchase commitments	2,239,821	-	2,239,821
Operating lease liabilities (current)	190,604	-	190,604
Total Current Liabilities	6,698,350	(333,113)	6,365,237
Operating lease liabilities (non-current)	112,900	-	112,900
Other non-current liabilities	3,105,037	-	3,105,037
Total Liabilities	<u>\$ 9,916,287</u>	<u>\$ (333,113)</u>	<u>\$ 9,583,174</u>
Stockholders' Equity			
Preferred stock, \$0.0001 par value; authorized 1,000,000 shares; none issued and outstanding	-	-	-
Class A common stock - \$0.0001 par value; authorized 100,000,000 shares; 2,720,328 shares issued and outstanding	269	-	269
Class B common stock - \$0.0001 par value; authorized 7,000,000 shares; 700,000 shares issued and outstanding	70	-	70
Additional paid-in capital	91,736,545	-	91,736,545
Accumulated deficit	(87,251,102)	2,992,344(e)	(84,258,758)
Accumulated other comprehensive loss	(1,208,945)	-	(1,208,945)
Total Stockholders' Equity Attributable to Motorsport Games Inc.	3,276,837	2,992,344	6,269,181
Non-controlling interest	143,115	-	143,115
Total Stockholders' Equity	<u>3,419,952</u>	<u>2,992,344</u>	<u>6,412,296</u>
Total Liabilities and Stockholders' Equity	<u>\$ 13,336,239</u>	<u>\$ 2,659,231</u>	<u>\$ 15,995,470</u>

The accompanying notes are an integral part of these consolidated financial statements.

NOTES TO UNAUDITED PRO FORMA CONDENSED FINANCIAL STATEMENTS

The pro forma adjustments are based on the terms of the Assignment and Assumption Agreement (the “Agreement”) of the Second Amended and Restated Distribution and License Agreement by and between 704Games LLC, a Delaware limited liability company (successor by merger to 704 Games Company, a Delaware corporation), a wholly-owned subsidiary of the Stockholder, and NASCAR Team Properties, a series trust organized under the laws of Delaware, effective as of January 1, 2019, as amended by that certain Amendment to Second Amended and Restated Distribution and License Agreement, dated November 13, 2020, and the Amendment to Second Amended and Restated Distribution and License Agreement, dated November 30, 2020 (the “Contract”), as well as the NASCAR Limited License Agreement (the “New Agreement” between Motorsport Games Inc. (the “Company”) and NASCAR Team Properties (“NTP”).

These pro forma adjustments include those adjustments that are directly attributable to the assignment of the Agreement and acquisition of the New Agreement and deemed to be factually supportable, or based on estimates and assumptions that management believes to be reasonable. The pro forma adjustments are described below:

Unaudited Pro Forma Condensed Consolidated Statements of Operations

(a) The gain on disposal of the Agreement has been calculated as the difference between the total consideration received under the Agreement, less the carrying value, or net book value, of the NASCAR License as capitalized under Intangible Assets in the balance sheet of the Company as of the start of the period adjusted for by the pro forma adjustments.

(b) The reduction in depreciation and amortization, an accounting estimate, reflects the reversal of amortization expense incurred during the period subject to pro forma adjustments in order to correctly reflect the gain on disposal of the NASCAR License at the beginning of the period subject to pro forma adjustments. No amortization has been recorded in respect of the new finite-lived intangible asset acquired under the New Agreement as the agreement is not effective until the fourth-quarter of 2023.

(c) There is no adjustment to the net loss attributable to non-controlling interests, net of tax, as the disposal of the Agreement relates to a portion of the business that is wholly-owned by the Company and therefore does not have a minority shareholder interest.

Unaudited Pro Forma Condensed Consolidated Balance Sheet

(a) The increase in cash and cash equivalents represents the expected cash proceeds received on the execution of the disposal of the Agreement, offset by the cash consideration payable on execution for the New Agreement. Such amounts will be net settled as part of the overall transaction.

(b) The increase in prepaid expenses and other assets reflects purchase consideration due as a result of the disposal of the Agreement, which is deferred and due six-months from the execution date, with no other payment conditions attached. An incremental \$0.5 million purchase consideration is due as a result of the disposal, however such consideration is deemed variable in nature and subject to the Company fulfilling certain conditions in order for the amount deferred to be payable. As those conditions have not been fulfilled at the execution date, the Company determined it appropriate not to recognize the deferred consideration until such time those conditions are deemed highly probable of being satisfied.

(c) The decrease in intangible assets reflects the disposal of the NASCAR License, a finite-lived intangible asset, as a result of the assignment of the license under the Agreement, which is partially offset by the addition of a new finite-lived intangible asset, acquired under the New Agreement.

(d) The decrease in accrued expenses and other liabilities reflects the reduction in accrued minimum royalty guarantee, which is paid in full and upfront as part of the disposal of the Agreement and the acquisition of the New Agreement.

(e) The decrease accumulated deficit reflects the gain on disposal of the Agreement.
