



COMPETITION 2

MEDIATION-ARBITRATION (MED-ARB) CONCORDAT 2.0

THEME:

INTERNATIONAL SPORTS LAW (FORMULA 1)

ALL THE BEST!!

Mediation Problem

Preliminary Round

Formula Hybrid (FH) is the pinnacle of single-seater open-wheel motorsports with a TV viewership of around 1.55 billion each year and millions of fans turning up to watch the races live at various Circuits. The Championship's 23-race calendar sees 10 teams, each team fielding 2 cars per event, travel across the entire globe battling it out for the Drivers' and Constructors' Championships.

In 2021, the Championship travelled to the Republic of Aiman for their very first Aimani Grand Prix. The 6.2 kms Aiman Street Circuit was specifically built for the Championship after FH signed a commercially lucrative bi-partite 3-year deal, with an option to extend. The Agreement was executed on the 27th September, 2020 between FH, signed on its behalf by Mr. Nessa, the CEO of Formula Hybrid and Mr. Al-Mubarak, the promoter of the Aimani Grand Prix. Mr. Al-Mubarak was an astute businessman and a fan of the FH series; as a result, he saw potential in the race both as a commercial success and a lifelong ambition. As per the terms of the contract, the Circuit was entitled to 95% of the net live-gate and 15% of the net broadcast revenue, whilst FH would charge a hosting fee of \$35 million per race from the Circuit. The Circuit cost \$250 million to build from scratch and was in fact the fastest street circuit in the world. The Circuit received its Grade 'A' certification from the governing body of the sport- the International Body of Motor Racing (IBMR), possession of which is mandatory for hosting a FH race, three weeks before the first race was to be held at the Circuit.

In 2021, the total revenue earned by the Grand Prix amounted to \$225 million. Out of this, the live gate amounted to \$25 million, the broadcast revenue was \$175 million and race-specific sponsorship revenue amounted to a total of \$25 million. As per the financial terms decided by the parties, the circuit maintenance costs which amounted to \$75,000 were to be deducted from the live-gate before computing the share of both parties. Further, for the inaugural Aimani Grand Prix, it was decided that a lavish opening ceremony be held. The Circuit invited famous artists from all over the world to perform. It was decided that the cost of the opening ceremony will be borne out of the sponsorship revenue and any surplus be then divided amongst both the parties equally. The opening ceremony set the event back by an invoice of \$1.2 million.

For the 2022 season, the Aimani Grand Prix was to be held on the 27th of March, one week after the season-opener in the country of Belgrain. On the 1st February, 2022, the Government of the Republic of Aiman came under immense scrutiny from various global leaders,

organisations and NGOs after reports emerged that documented the nation's sordid history of systematic Human Rights violations. Quickly, this issue became a matter of primetime news. The reports that emerged expounded the torture and inhuman treatment of prison inmates, denial of basic rights to women and the prosecution of the LGBTQ community. Further, civil unrest was prevalent within the Republic since the 1990s. The Binzaghi tribe of Aiman had crusaded for independence from the Republic since the change in government happened 27 years ago. Peace talks and appeasement were never an option due to the inherent political and ideological stands of both the Binzaghi's and the Government of the Republic of Aiman. In the past, Binzaghi separatists had planned a myriad of coups but had been foiled every time. However, this time, they had the backing of terrorist organisation OSIS, who had pledged arms and men for their pursuit to overthrow the government if the demands of a separate sovereign State for the Binzaghi's was not honoured by the Republic. On the 25th March, 2022, on the day of the first practice session of the Aimani Grand Prix weekend, Binzaghi separatists declared war on the Republic of Aiman and subsequently launched missiles directed at various strategic hot-spots to cripple the nation economically and otherwise. The strikes resulted in the loss of property and life and also triggered a full-scale humanitarian crisis with the Aimani populous seeking safe shelters and struggling with a dearth of basic resources. One such targeted area was in close proximity to the Circuit and viewers at home could see billows of smoke rise in and around the circuit. Smoke particles and minute debris could be seen entering the track from above. This was substantiated by various radio comms by the drivers to their teams as they reported a burning smell emanating from outside their cockpits. The top management of FH was quickly summoned for an emergency meeting with the Ministry of Defence of Aiman where after a lengthy discussion and persistent assurances from the Defence Ministry it was concluded that the Circuit, the fans, the drivers, media persons and team personnel were not at risk from the missile strikes and that the race could go ahead as scheduled.

Incidentally, during the first practice session, Tommy who races for Rot Stier Racing suffered a 273 km/h crash in the second sector of the track during which he had a 33G impact with the barriers which knocked him unconscious for a considerable amount of time. However, after being extracted from the car and gaining consciousness, he was ruled fit to race on Sunday by the on-site medical team. This incident and the other subsequent developments prompted the Committee of Grand Prix Drivers (CGPD), consisting of all the 20 drivers, to convene a meeting to discuss and vote on whether the race should go ahead or not.

After a 3-hour long meeting, 12 drivers, representing 6 teams, and Tommy voted against the race going forward citing the following grounds:

(a) Given Aiman's history of systematic human rights violations, the drivers do not feel morally and ethically comfortable racing in a country like Aiman. Further, the drivers feel that going ahead with the race would inherently go against the ethos of the 'WeRaceForEquality' campaign launched by FH recently.

(b) The drivers strongly feel that given the high-average speeds and the proximity of the track with the barriers, the track is not fit for an FH race and is appallingly unsafe. A testament being Tommy's crash in the Friday's Practice session.

(c) A further safety concern is the missile strikes in close proximity to the Circuit. The drivers are not convinced by the reassurances and thus, do not want to risk their own and the lives of the others present at the track just for the sake of letting the race go ahead.

The drivers that voted against the race going ahead, communicated the same to their respective teams. Following this, Mrs. Pinkett-Smith, on behalf of Rot Stier Racing and the other 6 teams that were being represented by the drivers who were against the idea of the Grand Prix going ahead, released a statement to the press, voicing their intention to show solidarity with their drivers and hence, announced their withdrawal from the Grand Prix. The CEO of FH, Mr. Nessa was taken aback by this development as FH was under the impression that after the assurances by the Ministry of Defence and the fact that the Circuit holds IBMR's Grade 'A' Certification, the race was to go ahead as planned and the drivers had no valid grounds to deem otherwise.

Now in the spirit of fraternity and the fact that the parties realise they cannot afford to sour relations with each other, Formula Hybrid, represented through Mr. Nessa, and the teams and the drivers being represented through Mrs. Pinkett-Smith, have mutually decided to settle this dispute through mediation.

Mediation Problem

Quarter Final Round

The Republic of Aiman, situated in the Middle East, is a natural-resource rich nation. At the turn of the century, the government of the Republic of Aiman, in a bid to reap the benefits of modernisation and globalisation, actively started pursuing commercially viable opportunities to turn the coastal nation into a tourist hot-spot. After witnessing the global phenomenon of FH in neighbouring countries, the Republic of Aiman realised the untapped potential of hosting an FH race. In 2021, FH itself was in the midst of expanding its roster of races and was keen on adding another Middle Eastern race so as to solidify its fan base in the region.

In pursuance of this, Mr. Nessa and Mr. Al-Mubarak, the promoter of the Aimani Grand Prix, held lengthy discussions with regard to the prospect of building a bespoke Street Circuit to hold the Aimani Grand Prix. A Letter of Intent was signed by the parties on 3rd August, 2019, in pursuance of the aforesaid discussions. As per the letter, Mr. Al-Mubarak would take responsibility for the construction of the Circuit, and FH would enter into a bi-partite 3-year deal, with an option to extend. As per the agreement, which was executed on the 27th September, 2020 the Circuit was entitled to 95% of the net live-gate and 15% of the net broadcast revenue whilst FH would charge a hosting fee of \$35 million per race from the Circuit. In the light of the uncertainty that had shrouded the entire world for the last 2 years, it was agreed upon to include a standard *Force Majeure* clause into the agreement for the benefit of both the parties.

On the 26th of March, 2022, the mediation attempts between FH and the teams and drivers broke down. The drivers and the teams held on to their stance. During the mediation proceedings, the drivers were adamant that the circuit was unsafe, the Republic was not a country they wished to race in, and that the Aimani Grand Prix could be disastrous, in the given circumstances, for the future of the sport. As per the revised FH Sporting Regulations, a Grand Prix could be held only in the event that at least 5 entrants were on the starting grid at the time of the Formation Lap. However, in light of all the negative press that the entire fiasco had garnered, Sponsors and Fans threatened to boycott the event. Further, FH was also concerned about the commercial implications and the reputational loss that could engulf the entire championship if they decided to hold the race anyway. Another incident that transpired during the aforesaid mediation proceedings was the fact that the Drivers intended to boycott the Aimani Grand Prix every year in its entirety.

The top management of FH held an emergency meeting in which they came to the conclusion that, the demand of the drivers and the teams were reasonable insomuch as FH, the teams and the drivers concurred on the ethical, moral and financial implications that holding the Grand Prix would have. Consequently, FH decided to cancel the race and refund the tickets to the fans. FH also intimated Mr. Al-Mubarak that, effective immediately, the Agreement between FH and the Circuit was to stand terminated. Mr. Al-Mubarak informed Mr. Nessa that, refunding the tickets to the fans would mean no live gate remuneration for the Circuit whilst the cancellation of the race would also lead to no broadcast revenue share. Further, termination of the contract would mean that the Circuit would default on its dues *vis-à-vis* the construction and hospitality costs, and would lead to the liquidation of its assets and the track shutting down for good. According to Mr. Al-Mubarak, the decision of FH was inherently arbitrary and constituted a breach of contract.

Mr. Al-Mubarak quickly realised that litigation would be tantamount to a definitive severance of the already delicate relationship that the Circuit had with FH putting the Circuit at risk of permanently shutting down. On the other hand, Mr. Nessa too realised the importance of maintaining civility whilst dealing with such a matter, for the sake of FH's reputation amongst the fans as well as other Circuit and Grand Prix promoters. Hence, in this regard, both the parties have agreed to amicably resolve this dispute by way of mediation so as to possibly reach a compromise that would not adversely impact either party.

ANNEXURE – I

Letter of Intent signed by and between Formula Hybrid and the Aimani Grand Prix Promotions Ltd.

THIS LETTER OF INTENT IS MADE ON THIS 3rd DAY OF AUGUST, 2019 BY AND BETWEEN

Formula Hybrid Ltd., represented by Mr. Nessa

and

Aimani Grand Prix Promotions Ltd., represented by Mr. Al-Mubarak

(Formula Hybrid Ltd. and Aimani Grand Prix Promotions Ltd. are individually referred to as the 'Party' and collectively referred to as the 'Parties'.)

RECITALS

- (1) Formula Hybrid Ltd. is the convenor of the Formula Hybrid Championship, the pinnacle of single-seater open-wheel motorsports;
- (2) Aimani Grand Prix Promotions Ltd. shall undertake the responsibility of building and maintaining a bespoke Street Circuit to host a Formula Hybrid Grand Prix. It shall also promote said Grand Prix.; and
- (3) Now, vide this LETTER OF INTENT, the Parties wish to enter into certain mutually commercially beneficial transaction/s in relation to the subject matter of this letter and subject to the terms of this LETTER OF INTENT.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN WHICH THE PARTIES ACCEPT ARE GOOD AND VALUABLE CONSIDERATION AND THE RECEIPT AND SUFFICIENCY OF WHICH ARE ALSO HEREBY MUTUALLY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

(A) INTRODUCTION

Formula Hybrid Ltd. wishes to hold a Grand Prix in the Republic of Aiman. In pursuance of this, it wishes to engage with Aimani Grand Prix Promotions Ltd. for the establishment of a bespoke Street Circuit that shall host the aforesaid Grand Prix. In this context, Formula Hybrid Ltd. and Aimani Grand Prix Promotions Ltd. have expressed interest to execute this letter of intent to collaboratively achieve the same. This is a standalone, legally non-binding Agreement.

(B) EFFECTIVE DATE

This LETTER OF INTENT has an effective date of 3rd August, 2019 and will expire on 3rd December 2020 unless terminated earlier as per this LETTER OF INTENT.

(C) TERMS

Formula Hybrid Ltd. and Aimani Grand Prix Promotions Ltd. shall enter into a legally binding agreement in pursuance of this LETTER OF INTENT. The Circuit once built, shall be registered in the name of the Aimani Grand Prix Promotions Ltd. and shall retain full ownership of the same. After each Grand Prix event, Aimani Grand Prix Promotions Ltd. shall retain 100% of the Live-Gate, whereas, they shall be entitled to 35% of the Broadcast Revenue. The Grand Prix contract shall be extended every year, on a mutual basis and on mutually agreeable terms. The Agreement shall only be valid if the Circuit holds the Grade 'A' Certificate issued by the IBMR before the first Grand Prix is to be held at the track.

IN WITNESS WHEREOF, the Parties have executed this LETTER OF INTENT through their legally authorised representatives on the date first above written.

**For and on behalf of Formula Hybrid
Ltd.**

**For and on behalf of Aimani Grand Prix
Promotions Ltd.**

Name: Mr. Nessa
Position: Chief Executive Officer

Name: Mr. Al-Mubarak
Position: Chairperson

ANNEXURE – II

Agreement executed by and between Formula Hybrid and the Aimani Grand Prix Promotions Ltd.

THIS AGREEMENT (“**Agreement**”) is executed by and between, on this 23rd day of December, 2018 (“**Execution Date**”),

FORMULA HYBRID LTD. a company duly incorporated and represented through **Mr. Nessa** (hereinafter called “**FH**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **ONE PART**;

AND

AIMANI GRAND PRIX PROMOTIONS LTD. a company duly incorporated and represented through **Mr. Al-Mubarak** (hereinafter called “**PROMOTER**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **SECOND PART**;

Each party shall hereinafter be individually referred to as the “Party” and collectively as the “Parties”

WHEREAS:

I. FH is the convenor of the Formula Hybrid Championship, the pinnacle of single-seater open-wheel motorsports.

II. The Promoter shall undertake the responsibility of building and maintaining a bespoke Street Circuit to host a Formula Hybrid Grand Prix. It shall also promote said Grand Prix.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION THE ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AND THIS AGREEMENT WITNESSETH AS UNDER:

1. CONSIDERATION

In pursuance of the object of this agreement, the Promoter hereby agrees to pay a sum of \$ 35 million to FH as Hosting Fees.

2. TERM AND TERMINATION

2.1 FH hereby agrees to contract the hosting of the Aimani Grand Prix to the Promoter and their Circuit from the 2021 FH season onwards till the 2023 FH season. This arrangement may be extended beyond the stipulated principal term, only through mutual consensus.

2.2 Either party reserves the right to terminate this agreement with immediate effect in case of any material breach of this agreement, furnishing of any false information and/or material breach of any Regulations and Rules as framed, adopted and/or amended by the Formula Hybrid Championship or its Governing Body.

3. PROMOTER'S OBLIGATIONS

3.1 The Promoter agrees to act honestly, reasonably and in full confidence of FH in pursuance of fulfilling its obligations and duties as mentioned and construed in this agreement.

3.2 The Promoter agrees to take full responsibility vis-à-vis the construction of the circuit, its maintenance and the obtaining of all necessary approvals from the IBMR for the hosting of a FH Grand Prix. FH shall not be liable in any way if the Promoter fails to do so.

4. FH'S OBLIGATIONS

4.1 FH hereby agrees to entitle the Promoter to 95% of the net live-gate.

4.2 FH hereby agrees to entitle the Promoter to 15% of the net broadcast revenue.

4.3 FH hereby agrees that any other financial arrangements, remittances and/or expenses be decided only after due consultation with the Promoter. Any decision in this regard shall only be taken and/or imposed on mutually agreeable terms.

5. FORCE MAJEURE

In no event shall either party be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, any act of God. Further, any third-party interference that renders the object of this agreement as void shall not entitle either party to claim the performance of this agreement. However, all parties must act prudently and in the best interest of the other party at all times.

IN WITNESS WHEREOF, the Parties have executed this agreement through their legally authorised representatives on the date first above written.

**For and on behalf of Formula Hybrid
Ltd.**

**For and on behalf of Aimani Grand Prix
Promotions Ltd.**

Name: Mr. Nessa

Name: Mr. Al-Mubarak

Position: Chief Executive Officer

Position: Chairperson

Arbitration Problem

Semi- Final Round

Hayai Limited is an automobile giant founded in 1901 at Degna. Since its inception, it had been in the business of manufacture, supply and development of automobiles and its parts. Currently, Hayai Limited has a global market presence of around 11.2%. On June 24, 1982, Hayai Racing Corporation (hereinafter referred to as 'Hayai') was founded as a wholly owned subsidiary of Hayai Limited for the sole purpose of research, development, and subsequent manufacture and supply of race cars, its components and spares for various motorsport series including Formula Hybrid (hereinafter referred to as 'FH'). In 1982, Hayai entered FH as the Engine Supplier for McKendry Racing, winning 6 out of 10 championships from 1982 to 1991. Consequently, Hayai consolidated itself in other open-wheel motorsport series as a supplier of various components such as Engines, Chassis, Gearboxes etc. Hayai maintained itself in FH in the guise of Engine Suppliers for various teams up until 2016, however, it failed to replicate the success it had revelled, in through the 80s and early 90s. After a short hiatus, Hayai returned to FH in 2019 after it penned a deal with Rot Stier Racing to become their Engine suppliers till the end of the 2023 season. Further, rumours have been abounded recently, that Hayai Limited is looking to acquire Edison Motors, so as to increase their market standing in the Western automobile markets.

Rot Stier Energy Drinks Plc was founded by Mr. Maslowski on October 23, 1999, in Fraunland. By virtue of an aggressive brand placement campaign, Mr. Maslowski started investing heavily in adventure sports and other allied sports so as to assimilate Rot Stier's energy drinks' image with the notion of high-octane adrenalin. Hence, for the 2004 FH season, Mr. Maslowski bought the Minerale FH Team and rebranded it as Rot Stier Racing (hereinafter referred to as 'Rot Stier'). From the very outset, Rot Stier revelled in relative success. They were always in the fight for podiums and race wins, however, having consolidated themselves as a top 3 contender, they have failed to ever win the FH Championship. In 2019, Hayai entered into a 5-year deal with Rot Stier to become their engine supplier for the FH Championship.

Rot Stier was actively pursuing a new long-term engine partnership after their existing deal with Robust Engines ended in 2018. Mr. Maslowski was keen on finalising the deal with Hayai after promising and progressive talks developed between the parties. Hayai was determined to emulate their earlier success and Rot Stier was attracted to the Championship pedigree Hayai has already had. The chatter in the paddock was also hinting toward the direction of this

partnership being a very fruitful and positive step forward for both the parties. The 2019 FH season was a relative success for the duo. Rot Stier, powered by Hayai, was consistently in the mix for Podiums and won 4 races that season. Even though they finished 3rd in the Championship that year, both parties were aware that they had a good package with respect to the car and its engine. The 2020 season only substantiated this as Rot Stier finished 2nd in the Constructors' Championship and their driver Tommy finished 2nd in the Driver's Championship. The 2020 season, however, had a delayed and shortened calendar because of the Pandemic that had gripped the entire world. The pandemic was declared as the greatest public health crisis that humankind had ever witnessed. The restrictions got imposed globally, in order to curb the spread of the disease, which led to a systematic failure of the global economic machinery. Businesses, sports and the entire global economy were adversely impacted, Rot Stier and Hayai being no exceptions. The automobile market saw a great recession in light of the pandemic. Hayai limited has been running in losses since the first wave of the pandemic began. For the 2021 season, all eyes were on Rot Stier and Hayai. Given the exponential development rate that they showcased consistently since 2019 and the fact that they had Tommy, who is touted as a future World Champion, racing for them meant that they went into the 2021 season as favourites. Rot Stier delivered what was expected of them in the first 5 races of the season as Tommy consolidated himself at the top of the Driver Standings and Rot Stier was also leading the Constructors' Championship.

On the eve of the 6th Grand Prix, Hayai, by way of an internal memo, informed Rot Stier that due to the pandemic and its economic effects, Hayai Limited's board had passed a resolution which meant Hayai had to pull out of the FH championship by the end of the 2021 season and that they would be terminating their agreement with Rot Stier. Soon after, a public announcement was also made on these lines. This news came as a shock to the entire paddock as well as Rot Stier given that the duo was on the brink of glory and possibly on the verge of forging a record-breaking FH dynasty. Rot Stier strongly condemned the severity of Hayai Limited's board resolution and termed it as unreasonable and inherently illegal. In light of the situation, both parties agreed to convene a meeting, on June 08, 2021, the quorum of also consisted of the legal counsels of the parties.

The minutes of the meeting reflected the legal stance taken by both the parties as well as incidental developments towards a failed attempt to amicably resolve the dispute. Rot Stier contended that as per the termination clause of the agreement entered into by the parties, the agreement could only be terminated, before the stipulated 5 years, through mutual consent.

Hence, Rot Stier believed that Hayai's decision to unilaterally terminate the agreement constituted as a breach of the contractual terms. In response, Hayai contended that in light of Hayai Limited's board resolution, and the fact that Hayai's FH operations are fully funded by Hayai Limited, the object of the agreement has now become impossible to achieve. Rot Stier suggested an alternative resolution whereby Rot Stier would continue to make use of Hayai's Engine IP, in light of the agreement, so as to develop and manufacture Engine's till the end of the 2023 season. Rot Stier in the meanwhile would look to engage with a new Engine supplier, as finding a competitive Engine Supplier at such short notice is near impossible. Hayai rejected this contention on the grounds that there was no legal basis for Rot Stier to make use of their IP as there was no IP licensing nor assignment and the fact that, technically, the agreement shall cease to exist. Further, Hayai contended that, the Intellectual Property was only shared to enable Rot Stier to manufacture and develop their gearboxes in accordance with the Engine specifications.

On June 24, 2021, on request of Rot Stier and in accordance with the agreement entered into by the 10 competing teams and FH, the President of the International Body of Motor Racing (IBMR); the governing body of the FH Championship, instituted an inquiry into the dispute and referred the matter to IBMR's International Tribunal in accordance with the Judicial and Disciplinary Rules. Hayai challenged the institution of such proceedings before the International Tribunal on the grounds that; the International Tribunal does not have any inherent jurisdiction as both parties already have a legally binding agreement in place which provides for dispute resolution. Further, the Dispute Resolution clause in the agreement between the competing teams and FH is violative of the rules of procedure established under the Judicial and Disciplinary Rules.

On June 30, 2021 the International Tribunal made a Procedural Order. The Procedural Order is provided as **Appendix IV**.

Note: The legal systems of both Degna and Fraunland follow Common Law. Further, the Rules and Regulations governing the FH Championship and framed, adopted and/or amended by the IBMR are parimateria to the Rules and Regulations framed, adopted and/or amended by the Fédération Internationale de l'Automobile.

APPENDIX – I

Board Resolution

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE BOARD OF DIRECTORS OF **HAYAI LIMITED** HELD ON THE 3rd DAY OF JUNE, 2021 AT THE REGISTERED ADDRESS OF THE COMPANY.

RESOLVED THAT the due to the economic adversity imposed by the pandemic on the Company, it shall impose budgetary restrictions upon its subsidiary **Hayai Racing Corporation**.

RESOLVED FURTHER THAT in light of the budgetary restrictions, the board of the Company believes it to be in the best interest of the shareholders that **Hayai Racing Corporation** only ceases to participate in the FH Championship at the end of the prevailing championship season.

RESOLVED FURTHER THAT, a copy of the above resolution duly certified as true by designated director/authorised signatory of the Company be furnished to any such other parties as may be required from time to time in connection with the above matter.

Authorised Signatory

Company Seal

APPENDIX – II

Engine Supply Agreement between Rot Stier Racing & Hayai Racing Corporation

THIS AGREEMENT (“**Agreement**”) is executed in the United Realms on this 23rd day of December, 2018 (“**Execution Date**”)

BY AND BETWEEN

HAYAI RACING CORPORATION a company duly incorporated and represented through **Mr. Tenesaki Aburro** and having its registered office at Degna (hereinafter called “**SUPPLIER**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **ONE PART**;

AND

ROT STIER RACING a company duly incorporated and represented through **Mr. Peter Maslowski** and having its registered office at Fraunland (hereinafter called “**CUSTOMER**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **SECOND PART**;

Each party shall hereinafter be individually referred to as the “**Party**” and collectively as the “**Parties**”

WHEREAS:

I. The Supplier is engaged in the business of research, development, manufacturing and supply of race cars, components and spares for various motorsport series.

II. The Customer is a full-time entrant in the Formula Hybrid Championship.

III. The Customer seeks to contract with the Supplier for Development, Manufacture and Supply of Engines to the Customer for their participation in the Formula Hybrid Championship.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION THE ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED,

IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AND THIS AGREEMENT WITNESSETH AS UNDER:

1. CONSIDERATION

In pursuance of the object of this Agreement, the Customer hereby agrees to pay a sum of \$ 65 million to the Supplier.

2. TERM AND TERMINATION

2.1 The Supplier hereby agrees to develop, manufacture and supply engines and its relevant components for the Customer from the 2019 Formula Hybrid Season onwards till the 2023 Formula Hybrid Season.

2.2 The Supplier and the Customer hereby agree that, this Agreement can be terminated before the expiration of the principal term, as mentioned herein, through mutual consensus.

2.3 Either Party reserves the right to terminate this Agreement with immediate effect in case of any material breach of this Agreement, furnishing of any false information and/or material breach of any regulations and rules as framed, adopted and/or amended by the Formula Hybrid Championship or its Governing Body.

3. SUPPLIER'S OBLIGATIONS

3.1 The Supplier agrees to act honestly, reasonably and in full confidence of the Customer in pursuance of fulfilling its obligations and duties as mentioned and construed in this agreement.

3.2 The Supplier agrees to act in the best interest of the Customer vis-à-vis the Customer's participation and reputation in the Formula Hybrid Championship.

3.3 The Supplier agrees to work in full cooperation with the Customer's engineers, mechanics and personnel with regards to feedback on the research, development and performance of the Engines.

3.4 The Supplier agrees to supply a specific number of Engines to the Customer for any particular season and at intervals as stipulated by the Customer, with such number being defined by the Formula Hybrid Championship and its Governing Body.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer hereby agrees to affix the name of the Supplier on the either side of the Engine Covers, the Rear Wings and either Side-pods of both the cars.

4.2 The Customer agrees to act in the best interest of the Supplier.

4.3 The Customer agrees to maintain secrecy and confidentiality with regards to the technical know-how it receives from the Supplier in due course of the fulfilment of this agreement.

5. INTELLECTUAL PROPERTY

5.1 The Supplier hereby agrees to provide the Customer, for the duration of this Agreement, with all the relevant Intellectual Property for the Engines including but not limited to, layouts, designs, etc.

5.2 Any and all Intellectual Property transferred to either party in pursuance of this agreement shall only be valid till the expiration of this agreement. Further, this clause shall not be construed as a transfer of ownership with regard to the subject-matter of this clause.

5.3 Both Parties hereby agree to maintain strict confidentiality with regard to any Intellectual Property held, used and/or transferred in pursuance of this Agreement.

6. FORCE MAJEURE

In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including but not limited to, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the parties shall use reasonable efforts which are consistent with accepted practices in the industry to resume performance as soon as practicable under the circumstances.

7. SEVERABILITY

The parties hereby agree that in case any part of this Agreement becomes unenforceable, it shall not absolve the parties from any liability and/or obligation that may arise or may have arisen or has cause to arise through the expected performance of the Agreement.

8. DISPUTE RESOLUTION

8.1 Any dispute, controversy, or claim arising out of, or in relation to, this contract, including regarding the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with International Chamber of Commerce Rules, 2021.

8.2 The number of arbitrators shall be 2 (two), with each party appointing an arbitrator each.

8.3 The seat of the arbitration shall be Fraunland.

8.4 The arbitral proceedings shall be conducted in English.

APPENDIX – III

Agreement Between FH & competing teams

THIS AGREEMENT (“**FH Agreement**”) is executed in the United Realms on this day the 1st of June day of December 2021 (“**Execution Date**”)

BY AND BETWEEN

FORMULA HYBRID LIMITED a company duly incorporated (hereinafter called “**FH**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **ONE PART**;

AND

FORMULA HYBRID PARTICIPANTS (hereinafter called “**COMPETITORS**” which expression shall unless it be repugnant to the context or meaning thereof mean and include its heirs, executors, administrators, its successors and permitted assigns in law) of **SECOND PART**;

Each party shall hereinafter be individually referred to as the “**Party**” and collectively as the “**Parties**”

WHEREAS:

I. FH conducts the Formula Hybrid championship.

II. The Competitors (10 teams) agree to participate in the said championship.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION THE ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AND THIS AGREEMENT WITNESSETH AS UNDER:

1. SCOPE OF AGREEMENT

In pursuance of this FH Agreement the Competitors hereby agree to participate in the FH championship and shall afford FH the commercial and other rights in light of the above.

2. CONSIDERATION

The competitors shall be remunerated in accordance with a mutually agreeable prize money distribution formula.

3. TERM AND TERMINATION

This FH Agreement shall be in force for a period of 10 years from the date of execution (Execution Date).

4. DISPUTE RESOLUTION

Any dispute and/or claim arising out of this FH Agreement directly or indirectly arising out of any Party's participation in the Formula Hybrid Championship shall be resolved by arbitration in accordance with IBMR's Judicial and Disciplinary Rules and before the International Tribunal.

The arbitral proceedings shall be conducted in English.

APPENDIX – IV
PROCEDURAL ORDER

ROT STIER RACING

Claimant

and

HAYAI RACING CORPORATION

Respondent

1. Any requests for clarification arising shall be made no later than 11:59 pm IST on _____ 2022 by _____.
2. Written submissions on behalf of the Claimant and the Respondent shall be filed by 11:59 pm IST on _____ 2022 by email to _____.
3. The oral hearings shall take place through video-link on _____ 2022.
4. In the written submissions and at the hearing on _____ 2022, the parties shall only address the following issues:
 - (a) Does the International Tribunal have jurisdiction over this instant matter?**
 - i.** What law governs this issue?
 - ii.** Is the Dispute Resolution clause in the FH Agreement between the competing teams and Formula Hybrid valid?

- iii. Does the Agreement between Hayai Racing Corporation and Rot Stier Racing take precedence over the FH Agreement between the competing teams and Formula Hybrid apropos the seat and rules of arbitration in this instant matter?

(b) Should Hayai Limited be joined as a respondent to these proceedings?

- i. What law governs this issue?
- ii. Is Hayai Limited's board resolution binding upon Hayai Racing Corporation?

(c) Is Hayai Racing Corporation liable for breach of contract?

- i. Does the board resolution of Hayai Limited and the pandemic constitute as a Force Majeure event as construed by the Agreement between the parties and the law?
- ii. Can Hayai Racing Corporation claim the defence of frustration of contract?

(d) Is Rot Stier Racing entitled to make use of Hayai Racing Corporation's Engine IP to develop and manufacture Engines till the end of the 2023 Formula Hybrid Championship season?

- i. Can the Intellectual Property clause in the agreement between the parties be construed as an agreement to license the Engine IP?
- ii. Can Rot Stier claim entitlement to the Engine IP till the end of the 2023 season on the basis of severability?

Arbitration Problem

Final Round

Tommy started his single-seater racing career at the age of 4. His father was a former Formula Hybrid driver with 3 podiums to his name and as many testified, untapped World Championship potential. His mother was an accomplished karting driver. Naturally, Tommy was also expected to follow the footsteps of his parents and establish himself in the world of motorsports. Years later, in an uncovered home footage that was televised in his home country of Oranj, his father was heard telling him, “You’re going to do what I couldn’t son, you’ll be a Formula Hybrid champion one day.” Tommy persevered since a very early age to make his father’s dream his own. It was common knowledge that Tommy’s father was an uncompromising man, hard on Tommy from the very beginning. From the outside, it seemed as though the pressure would get the best of Tommy, however, he always delivered. He developed nerves of ice, and his race-craft and driving style reflected the hard-headedness and aggression of his own father.

In 2016, Tommy got his lucky break when before the season began, Rot Stier Racing (hereinafter referred to as ‘Rot Stier’) scouted the youngster, at the time only 16 years of age, and made him the youngest Formula Hybrid driver ever (hereinafter referred to as the ‘Sport’). The hype around Tommy was immense, but like always, he delivered. He became the youngest ever Formula Hybrid race winner when he won a Grand Prix in his rookie season. It seemed like, in our midst, the stage was set to welcome a future legend of the Sport. In due course, 2017 and 2018 were both good years for Tommy as he quickly established himself as the poster boy of the Sport. The chatter around the paddock was that the day was not far when Tommy could actually win the Formula Hybrid Championship. All that he needed was a car that could fight for the title and Rot Stier had failed to do so even though they had consolidated themselves as a top 3 contender. The fact was that Rot Stier had always failed to win the FH Championship. When he heard this, Tommy was quick to shut down any criticism shown towards his team and proclaimed, “I will always be grateful to Rot Stier Racing for the chance that they have given me. We win this Championship as a team, or we don’t win it at all. I’m sure that the team and I will give everything we have to make this title a reality.”.

In 2019, Rot Stier, in a bid to push Tommy’s championship charge, entered into an Engine supply deal with Hayai Racing Corporation (hereinafter referred to as ‘Hayai’) till the conclusion of the 2023 season. Rot Stier were keen on extending Tommy’s contract as well,

however, the latter expressed his desire to see how Hayai performed first and then take a call accordingly. In 2019, Tommy won 4 races and finished 3rd in the Driver's championship. In 2020, he did one better by finishing 2nd in the Driver's championship. Tommy was sure that Rot Stier and Hayai now had the perfect package to help him fight for the 2021 title and beyond. Hence, over the winter break just before the start of the 2021 season, Rot Stier announced that Tommy had signed a lucrative 5-year deal with them that made him the highest earning Formula Hybrid driver ever. Rumour had it that, according to the agreement, Tommy had an exit clause that allowed him to terminate the agreement if Rot Stier failed to provide him with a competitive car. Rot Stier and Tommy went into the 2021 season as title favourites. Rot Stier delivered what was expected of them in the first 5 races of the season as Tommy consolidated himself at the top of the Driver Standings and Rot Stier was also leading the Constructors' Championship. The entire motorsports world was sent into a state of shock when Hayai announced, just before the 6th Grand Prix of the season, that they would be quitting the Sport at the end of the 2021 season. The animosity between Hayai and Rot Stier after the fallout and the burden of the impending legal proceedings created turmoil within the team. Consequently, Tommy's title charge faltered after the first 5 races of the season. Once again, Tommy could finish only 2nd in the Driver's championship whilst Rot Stier fell to 4th in the Constructors' championship.

For the 2022 season, FH imposed an engine development freeze via a technical regulation amendment till the end of the 2026 season so as to allow teams to completely focus on carbon neutral and sustainable engines for the 2027 season onwards. Hayai's pulling out of the FH Championship meant that Rot Stier had to hastily sign an Engine deal with Mandrea Racing. The preliminary dynamo results showed what Rot Stier feared most; the engine was three-tenths (3/10th) per lap slower than their championship rivals, Shelby Racing. The first half of the 2022 FH season proved this hypothesis, but on the back of Rot Stier's aerodynamic package and Tommy's sheer brilliance, Rot Stier kept challenging for podiums but never for race wins. Resentment and frustration were growing rapidly in Tommy's camp. At the debrief after the last race before the summer break, Tommy's engineers informed him that the deficit to Shelby Racing would take at least another 5 years for them to cover in light of the Engine freeze. Rot Stier's car was aerodynamically almost maximised and hence, only once the Engines could be re-developed would Rot Stier have an opportunity to close the gap. That very night, Tommy was spotted having dinner with Shelby Racing's team principal, Mr. Albizzi. Further, to the

nuisance of Rot Stier, Tommy would always give speculative answers when asked about the said meeting.

Two weeks into the summer break, Tommy along with his agent, during a press meet shocked the entire paddock when he publicly denounced Rot Stier's ability to ever win a championship and announced that he has signed an agreement with Shelby Racing to join them as their No. 1 Driver for the 2023 FH season onwards, on a multi-year deal. This unprompted announcement and public denouncement irked the management of Rot Stier and they urgently summoned Tommy and his agent. The meeting quickly turned into a heated argument and it was decided that it was best for the legal counsels of each party to meet and discuss the matter. Accordingly, the legal counsels met and discussed the issue at length.

Tommy's counsel contended that, according to the exit clause in his agreement, he is entitled to terminate the agreement to join Shelby Racing, in light of Rot Stier's current performance and inherent situation. Rot Stier refuted this by contending the following;

- (a) According to the agreement, Rot Stier was obligated to provide Tommy with a competitive car, Rot Stier has consistently been in the hunt for points and podiums, and thus has proved its competitiveness.
- (b) According to the FH 2022 Technical Regulations, an FH car has been defined separately from an Engine. Given that the deficit arises from an underpowered engine, Rot Stier has not failed to fulfil its obligations as per Tommy's exit clause even if Rot Stier currently cannot realistically compete for the FH championship.
- (c) Tommy's press antics have vastly tainted the image of Rot Stier and thus is tantamount to defamation and thus shall pay \$55 million in damages.

Having not received a satisfactory response from the legal team of Tommy, Rot Stier invoked the present proceedings by filing a Notice of Arbitration and Statement of Claim. However, this was challenged by Tommy on the grounds that, the correct forum for arbitrating the dispute was the Contract Recognition Board of the IBMR.

Shortly thereafter, the Tribunal made a Procedural Order. The Procedural Order is provided as **Appendix III**.

Note: The legal systems of both Oranj and Fraunland follow Common Law. Further, the Rules and Regulations governing the FH Championship and framed, adopted and/or

amended by the IBMR are parimateria to the Rules and Regulations framed, adopted and/or amended by the Fédération Internationale de l'Automobile.

APPENDIX – I

Tommy's Press Statement

For the past 7 years, I have dedicated myself to this team. We've shared highs and lows and have been, at least this is what I believed until recently, committed to the goal of becoming FH Champions. However, the way the whole Hayai situation has been handled has left a very bad taste in my mouth. Honestly, I don't see Rot Stier Racing having the same hunger, passion and dedication to win championships as Shelby Racing has shown.

In my eyes, I will never become a champion if I go on with Rot Stier Racing. For me, they do not have the ability nor the guile to win. And so, today I'd like to let everyone know that, for the 2023 FH season and beyond, I will be racing for Shelby Racing.

I can only hope that Rot Stier mend their ways, man up and compete. If not, I don't see why an Energy Drinks company deserves to have a place at the pinnacle of motorsports.

Transcript of Tommy's interview for FHTV

Interviewer: Hello Tommy! It's good to have you on. How are you doing?

Tommy: Good, mate.

Interviewer: Firstly, congratulations on your new ride for the next season! How excited are you?

Tommy: Very excited, mate. I'm sure there are great things to come next season.

Interviewer: Some pretty harsh words out there today for your current team. Do you think those comments you made were justified?

Tommy: Yeah, mate. I mean, I said what I said. I can't deny that they have been a great help to my FH Career and maybe my emotions got the better of me. But I didn't lie, did I? I mean, we haven't won anything yet. Why? Well, I don't want to say anything now.

Interviewer: Anyway, good luck for the rest of the season Tommy!

Tommy: Thanks, mate.

APPENDIX – II

Agreement between Tommy and Rot Stier Racing

THIS AGREEMENT (“**Agreement**”) is executed on March 14, 2016

BY AND BETWEEN

TOMMY (hereinafter referred to as ‘the Driver’ which expression shall unless it be repugnant to the context or meaning thereof mean and include his heirs, executors, administrators, its successors and permitted assigns in law) of **ONE PART**;

AND

ROT STIER RACING (hereinafter referred to as ‘the Team’ for the express purpose of extending and securing the services of the Driver for participation in the Formula Hybrid Championship.) of the **SECOND PART**;

Each Party shall hereinafter be individually referred to as the “Party” and collectively as the “Parties”

1. CONSIDERATION

In pursuance of the object of this Agreement, the team hereby agrees to pay a sum of \$100 million to the Driver.

2. TERM AND TERMINATION

2.1 The Driver hereby agrees to render his services and image rights to the Team from the 2021 Formula Hybrid Season onwards till the 2025 Formula Hybrid Season.

2.2 Either Party reserves the right to terminate this Agreement with immediate effect in case of any material breach of this Agreement, furnishing of any false information and/or material breach of any Regulations and Rules as framed, adopted and/or amended by the Formula Hybrid Championship or its Governing Body.

3. EXIT CLAUSE

3.1 The Driver hereby agrees to commit his services exclusively to the Team for the principal duration of the Agreement.

3.2 Notwithstanding anything contained in this Agreement anywhere, the Driver reserves the right to terminate this Agreement unilaterally and before the principal expiry term only in the event that the Team fails to provide them with a competitive car.

3.3 The Driver only reserves such a right relative to the facts and circumstances which are not in the control of either party.

4. FORCE MAJEURE

In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including but not limited to, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the parties shall use reasonable efforts which are consistent with accepted practices in the industry to resume performance as soon as practicable under the circumstances.

5. CONFIDENTIALITY

Both Parties agree that they shall keep all information that may be sensitive to the disclosing Party confidential.

6. DISPUTE RESOLUTION

6.1 Any dispute, controversy, or claim arising out of, or in relation to, this Agreement, including but not limited to the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with International Chamber of Commerce Rules, 2021.

6.2 The number of arbitrators shall be 2 (two), with each party appointing an arbitrator each.

6.3 The seat of the arbitration shall be Fraunland.

6.4 The arbitral proceedings shall be conducted in English.

APPENDIX – III

Procedural Order

ROT STIER RACING

-Claimant

and

TOMMY

-Respondent

1. Any requests for clarification arising shall be made no later than 11:59 pm IST on _____ 2022 by _____.

2. Written submissions on behalf of the Claimant and the Respondent shall be filed by 11:59 pm IST on _____ 2022 by email to _____.

3. The oral hearings shall take place through video-link on _____ 2022.

4. In the written submissions and at the hearing on _____ 2022, the Parties shall only address the following issues:

(a) Does the Tribunal have inherent jurisdiction?

- i.** What law governs this issue?
- ii.** Does the Contract Recognition board possess the inherent jurisdiction to arbitrate on this instant matter?
- iii.** Does the Contract Recognition Board have the power to award damages?

(b) Has Rot Stier Racing failed to fulfil its contractual obligations and thus triggered the Exit Clause?

- iii. What shall be the correct interpretation of the word ‘Competitive’ apropos the exit clause in the agreement between Tommy and Rot Stier Racing?
- iv. Under the FH Technical Regulations, 2022, can the car be construed as a separate entity from the Engine?
- v. If yes, does this absolve Rot Stier Racing from the performance obligation as per the agreement?
- vi. Can Rot Stier claim the defence of Force Majeure in this instant matter? If yes, does this mean that the exit clause by virtue of the above cannot be triggered?

(c) Is Tommy liable towards Rot Stier Racing to pay damages of \$55 million for his press statements?

-----*Kindly stick to the facts provided for a particular round, only relevant facts of the previous rounds can be used in the subsequent ones not otherwise. Example- in Semi-Final round relevant facts from the problem of preliminary round or quarter final round only can be used but not vice versa.*-----
