

C7 C A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2023-338-ND, THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND GLOBAL SPECTRUM L.P. D/B/A SPECTRA VENUE MANAGEMENT D/B/A OVG360 (A DIVISION OF OAK VIEW GROUP) FOR THE MANAGEMENT AND OPERATION OF THE MIAMI BEACH CONVENTION CENTER AND CAMPUS SUBSTANTIALLY IN THE FORM ATTACHED TO THIS RESOLUTION; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO FINALIZE AND EXECUTE THE MANAGEMENT AGREEMENT.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2023-338-ND, THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND GLOBAL SPECTRUM L.P. D/B/A SPECTRA VENUE MANAGEMENT D/B/A OVG360 (A DIVISION OF OAK VIEW GROUP) FOR THE MANAGEMENT AND OPERATION OF THE MIAMI BEACH CONVENTION CENTER AND CAMPUS SUBSTANTIALLY IN THE FORM ATTACHED TO THIS RESOLUTION; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO FINALIZE AND EXECUTE THE MANAGEMENT AGREEMENT.

RECOMMENDATION

The Administration recommends approval of the resolution, authorizing the management agreement with OVG360 for the management of the Miami Beach Convention Center.

BACKGROUND/HISTORY

On October 7, 2013, the City and Global Spectrum L.P. ("Global") became parties to a Management Agreement (herein "Agreement"). The City engaged Global to manage and operate the Miami Beach Convention Center ("MBCC"). The Agreement was for an initial term of three (3) years, ending on September 30, 2016, with a two (2)-year extension at the sole and absolute discretion of the City.

On October 21, 2015, the Mayor and City Commission, via Resolution No. 2015-29191 approved Amendment No. 1 to the Agreement, extending the term through September 30, 2020. Additionally, on September 23, 2016, the City terminated Global's responsibilities as manager and operator of the Colony Theater effective September 30, 2016.

On September 12, 2018, the Mayor and City Commission adopted Resolution No. 2018-30508 which approved Amendment No. 2 to the Agreement, extending the term through September 30, 2022. On September 11, 2019, the Mayor and City Commission approved Amendment No. 3 to the Agreement through Resolution No. 2019-30986. Amendment No. 3 approved an increase in Global's monthly impress (fixed balance) amount and established a Global-funded annual internship contribution among other things. On June 23, 2021, via Resolution No. 2021-31754, the Mayor and City Commission approved Amendment No. 4 to the Agreement providing for the management and maintenance, by Global, of Collins Canal Park, the two (2) clubhouse buildings formerly known as the Carl Fisher Clubhouse and Little Stage Theaters, and Pride Park, including the mangroves along Collins Canal within the footprint of the park. Amendment No. 4 provided for an increase of \$75,000 to the management fee amount in consideration of the additional scope and extended the terms of the Agreement for a period of 18 months through March 31, 2024.

On May 19, 2023, Invitation to Negotiate (ITN) No. 2023-338-ND was issued, as authorized by the City Commission, seeking proposals from convention facility management companies capable of providing a full range of comprehensive management, operations and maintenance

services. On September 13, 2023, the Mayor and City Commission awarded ITN No. 2023-338-ND, authorizing the Administration to enter into negotiations with Global Spectrum, L.P. d/b/a OVG360 as the sole proposer.

On March 26, 2024, the Mayor and City Commission, through Resolution No. 2024-32912, approved Amendment No. 5 extending the Agreement from April 1, 2024, through September 30, 2024 to align with the related food and beverage management agreement with Sodexo Live! and, the destination management organization Greater Miami Convention & Visitors Bureau (GMCVB) agreements and the City's fiscal year. The previous 18-month extension resulted in misalignment of the term of the agreement and the City's fiscal year.

On September 11, 2024, the Mayor and City Commission, through Resolution No. 2024-33232, approved Amendment No. 6 extending the Agreement on a month to month basis, not to exceed three (3) months, from October 1, 2024 through December 31, 2024 to allow the parties additional time to finalize the key terms of the new agreement. Note that on September 11, 2024, the City Commission also determined that Pride Park be managed and operated by the City's Parks and Recreation Department, as contemplated in the new agreement discussed further below.

ANALYSIS

Global Spectrum, L.P. was founded in 1994 as a management consulting firm. In November 2021, the Oak View Group acquired Global Spectrum, L.P., forming OVG360, a full-service venue management company. Currently, OVG360 is providing these services to the City, and the City is satisfied with its work over the term of the previous agreement.

As manager of the MBCC, OVG360 has hosted hundreds of events, including Art Basel Miami Beach, Super Bowl LIV Fan Experience, the Miami International Boat Show, and most recently the Adobe Max Creativity Conference. The MBCC is now nationally recognized at the top tier of convention centers, earning numerous awards and recognitions from meeting publications around the country, including the Facilities & Destinations Prime Site Award 2024 and Best Convention Center (U.S) Award by Skift Meetings. OVG360 has overcome various challenges, including remaining operational during the \$640 million renovation of the venue, major hurricane and rain events, Zika Virus, and the COVID-19 pandemic. Their efforts have ensured that one of the City's most valuable assets supports the greater Miami Beach community and the facility and operations remain best-in-class.

OVG360's effective management of the MBCC and campus, and collaborations with the Miami Beach Botanical Garden has attracted new events and industries to the City, enhancing the ability to host dynamic events of all sizes. With the MBCC hotel development in progress, OVG360's collaboration promises a positive integration of this City asset to the operation of the campus.

The new agreement (attached as Exhibit A) offers an opportunity for the City to augment the management of the MBCC. Specific key terms in the new agreement include:

- General Management Services:
 - Term of Agreement:
 - Five-year initial term, with a two (2)-year extension upon mutual agreement of the parties.
 - October 1, 2024, through September 30, 2029 (Initial Term)
 - October 1, 2029 through September 30, 2031 (Potential Renewal Term)
 - Management Fee:
 - Management fee in the total amount of \$360,000 for each fiscal year subject to an increase each fiscal year based on the lesser of the current year CPI or three (3) percent.
 - Incentive Fee:

- Annual incentive fee amount shall be equal to the aggregate amount of the Management Fee for a Contract Year. Following the end of each Fiscal year during the term, the City Manager shall assess OVG360's performance during such Fiscal Year and provide Global with a written report and annual Incentive Fee based on its performance in the following seven (7) categories:
 1. Financial and Productivity Benchmarks (40%) inclusive of:
 - Revenue Target Benchmark (15%);
 - Net Operating Loss/Profit Benchmark (15%); and
 - Labor as a percentage of gross revenue (10%).
 2. Customer Satisfaction (15%): The direct interaction and assistance provided to guests, event planners, and attendees for all experiences and events held at the Facilities, as measured through customer satisfaction surveys.
 3. Sustainability (5%): Operating in a way that protects, preserves or restores the natural environment, promotes social equity, enhances the lives of people and communities and contributes to economic prosperity.
 4. Facility Conditions/Maintenance/Repair (15%): Maintaining the facilities pursuant to a City-approved preventive maintenance system, with OVG360 submitting quarterly reports detailing the execution of the preventative maintenance schedule.
 5. Community Partnership (5%): New strategic alliances formed between various local organizations, businesses, or individuals to achieve positive measurable benefits to the sales, revenue and reputation of the facilities.
 6. Sales (15%) inclusive of:
 - Priority 3 Bookings - Exceeding the established Priority 3 events and social events sales goals (8%);
 - Hotel Partnerships - Increasing the number of quality hotel partner group bookings using space within the facilities (3%); and
 - Collaboration with the GMCVB on Hotel Room Nights (4%).
 7. Marketing & Communications (5%): Execution of the mutually agreed Marketing and communications plan in alignment with the GMCVB marketing and communications plan and shows relevant segmentation of marketing and communication initiatives that align with the City's goals.

The implementation of more sustainability initiatives throughout the campus will ensure a reduction on environmental impact and enhance resource efficiency. Under the new terms, an annual Sustainability Benchmark will be set for OVG360 that expands the MBCC responsible green reputation and metrics tracking. Similarly, the new agreement incorporates OVG360's adoption of a facilities condition assessment which tracks the health and useful service life of the facilities and OVG360's performance.

A new element to the agreement is cybersecurity. In our increasingly digital world, cybersecurity has become a critical issue for venue operation. By clearly defining cybersecurity responsibilities, the new agreement will ensure OVG360 mitigate risks, data breaches, financial losses, and legal liabilities. The inclusion of data protection requirements, breach notification protocols, liability and indemnity clauses, and compliance with laws will fortify venue resiliency.

Entering into the new agreement with OVG360, under the revised financial terms and incentive performance metrics, will enhance the commercial management of the asset. The City will have heightened engagement in the review and approval of personnel and induce OVG360 to be more fiscally prudent, innovative, and competitive. Likewise, the new agreement rewards creative and pioneering collaborations, programming, and facility improvements as well as partnerships between the City, the GMCVB, and Sodexo Live! that yield significant customer satisfaction resulting in increased sales, food and beverage concessions revenues, positive reputation, and more.

FISCAL IMPACT STATEMENT

Nationally, convention centers typically operate with a financial subsidy while providing a broader indirect economic impact to the community through tourism and hospitality-related visitor spending. The MBCC is supported and funded by revenue generated by the MBCC (including rentals, food, and beverage sales), Resort Tax (Convention Development Tax), and Miami Beach Redevelopment Agency (RDA) tax increment revenue.

The proposed MBCC management agreement is intended to continue generating revenue for the City, with the selected company being compensated on an agreed-upon, fixed management fee with incentives based on performance. The existing management fee is currently approximately \$373,000 annually. The negotiated management fee under the new agreement is \$360,000 and is subject to annual increases based on the lesser of 3 percent or the consumer price index (CPI). Additionally, as in the previous agreement the negotiated annual incentive fee is capped at the value of the annual management fee. Operating expenses related to managing, maintaining, promoting and marketing the MBCC (including personnel expenses) are funded by the City. Operating revenues offset operating expenses.

SUPPORTING SURVEY DATA

Based on the 2024 Miami Beach Community Survey, 84.1% of local businesses think the MBCC contributes positively to the overall value of doing business in Miami Beach.

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

The Administration is confident that the new agreement with OVG360 is in the best interest of the City based on the modernized and restructured terms and expectations that explicitly focus on performance metrics and deliverables that work to better align community and commercial benefits. The agreement will allow the City to respond to any impacts, influences, and competition and strategically plan the growth of Miami Beach as an international destination for conventions, conferences, and events as well as allows the City to improve alignment with the GMCVB and Sodexo Live! agreements.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Economic Development

Sponsor(s)

Co-sponsor(s)

Condensed Title

Approve ITN 2023-338-ND, MBCC Management Agreement with OVG360. ED

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING, BASED ON THE TERMS SET FORTH IN THIS RESOLUTION, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2023-338-ND, FOR THE MANAGEMENT AND OPERATION OF THE MIAMI BEACH CONVENTION CENTER AND CAMPUS, THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND GLOBAL SPECTRUM L.P. D/B/A SPECTRA VENUE MANAGEMENT D/B/A OVG360 (A DIVISION OF OAK VIEW GROUP) FOR THE MANAGEMENT AND OPERATION OF THE MIAMI BEACH CONVENTION CENTER AND CAMPUS; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE MANAGEMENT AGREEMENT.

WHEREAS, the City and Global Spectrum L.P. ("Global") are parties to a Management Agreement, dated October 7, 2013, pursuant to which the City engaged Global to manage and operate the Miami Beach Convention Center (the Management Agreement, as so amended and modified, is referred to herein as the "Agreement"); and

WHEREAS, the initial term of the Agreement was three (3) years, ending on September 30, 2016, subject to the City's right to extend the term for an additional two (2) years; and

WHEREAS, on October 21, 2015, in Resolution No. 2015-29191, the Mayor and City Commission approved Amendment No. 1 to the Agreement, extending the term thereof through September 30, 2020; and

WHEREAS, on September 23, 2016, the City Manager accepted notice to terminate the agreement for Global as manager and operator of the Colony Theater effective, September 30, 2016; and

WHEREAS, on September 12, 2018, in Resolution No. 2018-30508, the Mayor and City Commission approved Amendment No. 2 to the Agreement, extending the term thereof through September 30, 2022; and

WHEREAS, on September 11, 2019, in Resolution No. 2019-30986, the Mayor and City Commission approved Amendment No. 3 to the Agreement, approving an increase in Global's monthly impress amount and established a Global funded annual internship contribution; and

WHEREAS, on June 23, 2021, in Resolution No. 2021-31754, the Mayor and City Commission approved Amendment No. 4 to the Agreement providing for the management and maintenance, by Global, of Collins Canal Park, the two (2) clubhouse buildings formerly known as the Carl Fisher Clubhouse and Little Stage Theaters, and Pride Park, including the mangroves along Collins Canal with the footprint of the park; and provided for an additional annual fee of seventy-five thousand dollars (\$75,000) in consideration of the additional scope, and extended the term of the Agreement to March 31, 2024; and extended the term of the agreement for 18 months resulted in the misalignment of the term of the Agreement with the City's fiscal year; and

WHEREAS, in June 2022, Global notified the City of a merger between Global and Oak View Group and it intent to operate and manage the Miami Beach Convention Center under the fictitious name "OVG360"; and

WHEREAS, on February 21, 2024, in Resolution No. 2024-32912, the Mayor and City Commission approved Amendment No. 5 to the Agreement extended the term by six (6) months, to align with the related Sodexo Live! and GMCVB agreements. Accordingly, the amended term of the Agreement will commence on April 1, 2024 and expire on September 30, 2024; and

WHEREAS, on September 11, 2024, the Mayor and City Commission, through Resolution No. 2024-33232, approved Amendment No. 6 extending the Agreement on a month to month basis, not to exceed three (3) months, from October 1, 2024 through December 31, 2024 to allow the parties additional time to finalize the key terms of the new agreement; and

WHEREAS, Global Spectrum, L.P. was founded in 1994 as a management consulting firm. In November 2021, the Oak View Group acquired Global Spectrum, L.P., forming OVG360, a full-service venue management company. Currently, OVG360 is providing these services to the City, and the City is satisfied with its work over the term of the previous agreement.

WHEREAS, as manager of the MBCC, OVG360 has hosted hundreds of events, including Art Basel Miami Beach, Super Bowl LIV Fan Experience, the Miami International Boat Show, and recent phenomenal Adobe Max Conference and has developed the MBCC into a nationally recognized top tier of convention centers, earning numerous awards and recognitions from meeting publications around the country, including the Association, Convention & Facilities Magazine's 2023 Distinctive Achievement Award; and

WHEREAS, OVG360's effective management of Pride Park, Collins Canal Park, and collaborations with the Miami Beach Botanical Garden has attracted new events and industries to the City, enhancing the MBCC campus ability to host dynamic events of all sizes. With the MBCC hotel construction underway, OVG360's collaboration promises a positive integration of this City asset to the operation of the campus.

WHEREAS, the new agreement offers an opportunity for the City to augment the management of the MBCC. Specific key terms in the new agreement include a five year agreement with two year extension, General Management Services, Compensation, and a seven category Incentive Fee; and

WHEREAS, renewing the agreement with OVG360, under the revised financial terms and performance metrics, will enhance the commercial management of the asset; heightened engagement in the review and approval of personnel and induce OVG360 to be more fiscally prudent, innovative, and competitive; and

WHEREAS, the new agreement rewards creative and pioneering collaborations, programming, and facility improvements as well as partnerships between the City, the Greater Miami Convention and Visitors Bureau (GMCVB), and Sodexo Live! that yield significant customer satisfaction resulting in increased sales, food and beverage concessions revenues, reputation, and more; and

WHEREAS, the implementation of more sustainability initiatives throughout the campus will ensure a reduction on environmental impact, enhance resource efficiency, and expand the MBCC responsible green reputation and metrics tracking; and

WHEREAS, the new agreement will ensure OVG360 mitigate cybersecurity risks, data breaches, financial losses, and legal liabilities by including data protection requirements, breach notification protocols, liability and indemnity clauses, and compliance with laws.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, authorize, based on the terms set forth in this resolution, pursuant to invitation to negotiate (ITN) No. 2023-338-ND, for the management and operation of the Miami Beach Convention Center and campus, the management agreement between the City of Miami Beach and Global Spectrum L.P. d/b/a Spectra Venue Management d/b/a OVG360 (a division of Oak View Group) for the management and operation of the Miami Beach Convention Center and campus; and further authorizing the City Manager and City Clerk to execute management agreement.

PASSED AND ADOPTED this _____ day of _____ 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

**MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH, FLORIDA
AND
GLOBAL SPECTRUM, L.P., dba OVG360
FOR THE MIAMI BEACH CONVENTION CENTER**

Dated as of October 1, 2024

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this “Agreement”) is dated as of the 1st day of October, 2024, by and between the CITY OF MIAMI BEACH, a Florida municipal corporation, having its principal office at City Hall, 1700 Convention Center Drive, Miami Beach, Florida 33139 (the “City”), and GLOBAL SPECTRUM, L.P., a Delaware limited partnership doing business as OVG360, whose current address is 5050 S. Syracuse St. Suite 800, Denver, Colorado 80237 (“Global”).

RECITALS

WHEREAS, the City is the owner of the Miami Beach Convention Center (the “Convention Center”), including therein, without limitation, all respective adjacent grounds, sidewalks, rights-of-way and marshaling areas, including the two (2) innermost lanes on Convention Center Drive; located in the City of Miami Beach, Florida (individually, the “Convention Center” may be referred to herein as the Facility” and, collectively with Collins Canal Park, Collins Canal Mangroves, and the Carl Fisher Clubhouse and Annex, the “Facilities”).

WHEREAS, the City and Global are parties to a Management Agreement dated October 7, 2013, which agreement was subsequently amended and extended, pursuant to which the City engaged Global to manage and operate the Convention Center and, subsequently, the Facilities, through March 31, 2024 (as amended, the “Original Agreement”).

WHEREAS, on September 13, 2023, the Mayor and City Commission approved Resolution 2023-32722 accepting the recommendation of the City Manager and authorizing the City to enter into negotiations with Global Spectrum, L.P. d/b/a OVG360, and requiring the final term sheet be subject to approval by the Mayor and City Commission.

WHEREAS, on February 21, 2024, the Mayor and City Commission approved Resolution 2024-32912 authorizing Amendment No. 5 to extend the term of the Original Agreement for an additional six (6) months commencing on April 1, 2024 and expiring on September 30, 2024.

WHEREAS, the City and Global have negotiated the following Agreement, whereby the City wishes to again engage Global, and Global hereby accepts such engagement, to provide management services for the Facilities on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions

For purposes of this Agreement, the following terms have the meanings referred to in this Section 1:

“Advisory Board” -- the Miami Beach Convention Center Advisory Board, or such other successor entity as may be established by the City Commission.

“Affiliate” -- a person or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person. For purposes of this definition, “control” means ownership of equity securities or other ownership interests which represent more than 25% of the voting power in the controlled person or entity.

“Approved Budget” -- any budget submitted by Global, as approved by the City pursuant to Section 5 hereof.

“Capital Contribution – as defined in Section 5.

“Capital Equipment” -- any and all furniture, fixtures, machinery or equipment, either additional or replacement, having a per item original cost of \$500 or more or an expected useful life of more than one year.

“Capital Improvements” -- any and all building additions, alterations, renovations, repairs or improvements that have an initial dollar cost of not less than \$500 per project.

“Carl Fisher Club House and Annex” or “CFCH” – as defined in Section 13.16.2.

“City” -- as defined in the first paragraph of this Agreement.

“City Agreements” -- those agreements between the City and a third party relating to the Facilities and listed in Exhibit “A” attached hereto.

“City Commission” – the governing legislative body of the City.

“City Manager” -- the chief executive officer of the City, or such person as may from time to time be authorized in writing by such administrative official to act for him/her with respect to any or all matters pertaining to this Agreement.

“Commencement Date” – as defined in Section 3.1 hereof.

“Convention Center” -- as defined in the Recitals section of this Agreement.

“Event” – all uses of the Convention Center which involve a scheduled beginning and ending time. This shall typically mean the period commencing upon “load-in” of the Event; the Event itself; and ending upon conclusion of “load-out” of the Event.

“Event Expenses” -- any and all expenses incurred, or payments made by Global in connection with the occurrence of Events at the Facilities, including, without limitation, costs for Event staffing (including maintenance, management, operations, security and other Event staff), and costs relating to set-up and clean-up.

“Executive Compensation Amount” – as defined in Section 4.2(a).

“Executive Employee Benefit/Bonus Amount” – the aggregate amount of bonuses payable to, and the cost of benefits accruing to, Executive Level Employees of Global and any Related Party of Global at the Facilities for a Fiscal Year, which amount shall be mutually determined and agreed upon, in writing, by the City and Global as part of the development of each annual operating budget for a Fiscal Year pursuant to Section 5.3.

“Executive Employee Salaries” – salaries and wages of Executive Level Employees of Global and any Related Party of Global at the Facility for a Fiscal Year.

“Executive Level Employees” – unless otherwise determined by bond counsel for the City that the term “Executive Level Employees” shall include and/or exclude other employees, “Executive Level Employees” shall mean the General Manager, Assistant General Manager, Director of Operations, Director of Human Resources, Director of Finance, Director of Marketing, Director of Sales and/or Marketing, Director of Public Safety and Transportation, and Director of Event Services, which the parties agree includes all of Global’s director or executive level employees at the Facilities.

“Facility” and/or “Facilities” – (i) Convention Center, having a physical address of 1901 Convention Center Drive, Miami Beach, Florida 33139 (as defined in the Recitals section of this Agreement), shall include the entire Facility complex including, without limitation, the exhibit halls, meeting rooms, common areas, lobby areas, executive offices, storage and utility facilities, and the entrances and loading dock areas, (ii) the

Collins Canal Park, Collins Canal Mangroves, and (iii) Carl Fisher Clubhouse and Annex as illustrated in Exhibit ____, as defined herein. For the sake of clarity, the term “Facility” and “Facilities” shall specifically exclude Pride Park. If, during the Term, the City elects to have Global manage, promote, and operate other City facilities pursuant to Section 2.2(b) hereof (the “Additional Facilities”), such other facilities shall also be deemed included within the definition of Facility and/or Facilities hereunder.

“Fiscal Year” - each one-year period during the Term beginning October 1 and ending September 30, with the first (1st) Fiscal Year commencing on October 1, 2024.

“Force Majeure” – as defined in Section 13.5

“Global” - Global Spectrum, L.P., d/b/a OVG360 – as defined in the first paragraph of this Agreement.

“Global Capital Contributions” – collectively, the Capital Contribution, the Internship Contribution, as defined in Section 5.9(c), and any other capital contributions as may be mutually agreed to by Global and the City.

“Gross Operating Revenues” – (a) any and all revenues of every kind or nature derived from owning, operating, managing, maintaining, promoting, or marketing the Facilities including, without limitation: license, lease and concession fees and rentals; service revenues; revenues from merchandise sales; advertising sales; naming and sponsorship rights (as provided in Section 2.3(n)); equipment rentals; utility revenues; revenues from operation of the Convention Center’s telephone switch and telecommunications services; food and beverage and concession revenue; commissions or other revenues from decoration and set-up; security and other subcontractors; miscellaneous operating revenues; and interest revenues, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis. The parties acknowledge that revenues from the sale of tickets for Events at the Facilities are not Gross Operating Revenues, but are instead revenues of the promoter and/or performer of each such Event (as the case may be); provided, however, that to the extent that Global collects such ticket sale revenues on behalf of Event promoters and/or performers, such ticket sale revenues shall be the source of funds from which Global collects the rental charges and other Event reimbursements due by such promoters and/or performers for use of the Facility (which such charges and reimbursements are deemed Gross Operating Revenues hereunder).

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit, and (ii) identifying Gross Operating Revenues which will be budgeted in

Approved Budgets, Gross Operating Revenues from all Events at the Facilities will be calculated to exclude sales taxes generated in connection with such Events. In addition, solely for the purposes of calculating Net Operating Loss/Profit, any Convention Development Tax monies and any interest earned thereon, shall not be deemed Gross Operating Revenues hereunder.

“Management Fee” – as defined in Section 4.1(a).

“Net Operating Loss/Profit” -- with respect to a Fiscal Year, the excess, if any, of Operating Expenses for such Fiscal Year over Gross Operating Revenues for such Fiscal Year, in the case of a loss; and the excess, if any, of Gross Operating Revenues for such Fiscal Year over Gross Operating Expenses for such Fiscal Year, in the case of a profit.

“Operating Expenses” – (a) any and all expenses and expenditures of whatever kind or nature incurred, directly or indirectly, by Global in managing, operating, maintaining, promoting and marketing the Facilities, including, without limitation: employee compensation and related expenses (e.g., base salaries, bonuses, car allowances and severance pay [in accordance with Global’s established policy, a copy of which will be provided to the City on or before the Commencement Date of this Agreement, except that severance pay shall not be considered an Operating Expense if paid by Global to its employees as a result of early termination of this Agreement due to a default by Global]); employee benefits and related costs (e.g., relocation and other related expenses pursuant to Global’s relocation policy (a copy of which will be provided to the City on or before the Commencement Date of this Agreement); parking and other fringe benefits (including, without limitation, Executive Employee Salaries and the Executive Employee Benefit/Bonus Amount); supplies, material and parts costs; costs of any contractors; advertising, marketing and public relations costs and commissions; janitorial and cleaning expenses; data processing costs; dues, subscriptions and membership costs; the amortized amount of the Capital Contribution; the costs of procuring and maintaining the insurance required to be obtained by Global under this Agreement; amounts expended to procure and maintain permits and licenses; taxes and excises; professional fees; printing and stationery costs; Event Expenses; postage and freight costs; equipment rental costs; computer equipment leases and line charges; telephone switch and telecommunications services; repairs and maintenance costs (e.g., elevators and HVAC); security expenses; utility and telephone charges; travel and entertainment expenses (in accordance with the “Runzheimer Meal-Lodging Cost Index” or a comparable index); the cost of employee uniforms; safety and medical expenses; exterminator and waste disposal costs; costs relating to the maintenance of signage inventory and systems; the cost of annual independent audits of the Facilities; the cost of compliance with Laws (as defined in Section 11.2); the internal service charges assessed

by the City to the Facilities pursuant to Approved Budgets (which charges include, without limitation, property insurance premium costs, sewer charges, and communication/information technology charges); costs incurred under agreements, commitments, licenses and contracts executed as provided in Sections 2.3(c), (d), and (e) hereof; and the Management Fee payable to Global pursuant to Section 4.1(a) hereof, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis; (provided that Operating Expenses shall not include expenses or expenditures in connection with Capital Improvements and Capital Equipment purchases, the Incentive Fee payable to Global pursuant to Section 4.3 and Exhibit “J” hereof, and any expenses relating to Global personnel based in Global’s corporate headquarters in Philadelphia, Pennsylvania or Denver, Colorado, or its regional field locations (other than the reasonable costs of travel by such corporate or regional personnel in connection with Global’s management of the Facilities, which costs shall be Operating Expenses).

(b) Solely for purposes of calculating Net Operating Loss/Profit hereunder, (i) the internal service charges assessed by the City to the Facilities pursuant to Approved Budgets, and (ii) emergency expenditures pursuant to Section 2.3(t) hereof, to the extent not included in the Approved Budgets, shall not be deemed Operating Expenses hereunder. In addition, and solely for purposes of (i) calculating Net Operating Loss/Profit hereunder, and (ii) identifying Operating Expenses which will be budgeted in Approved Budgets, (A) all extraordinary expenses and all interest, income tax, depreciation and amortization expenses including, without limitation, depreciation and amortization on Global’s Capital Contribution, and (B) the Management Fee, shall not be deemed Operating Expenses hereunder.

“Related Party” or “Related Parties” has the meaning provided in § 1.150-1 of the Income Tax Regulations promulgated by the United States Department of the Treasury pursuant to the Code.

“Renewal Term” – as defined in Section 3.2 of this Agreement.

“Term” – as defined in Section 3.1 of this Agreement; provided however, if this Agreement is extended for a Renewal Term, all references to “Term” contained herein shall also include such Renewal Term.

2. Engagement of Global; Scope of Services.

2.1 Engagement.

(a) General Scope. The City hereby engages Global to manage, operate, maintain, promote, and market the Facilities during the Term, upon the terms and conditions set forth in this Agreement. Global hereby accepts such engagement and shall perform the services described herein, subject to the terms and conditions in this Agreement.

(b) Manager of Facilities. Subject to the terms and conditions of this Agreement, Global shall be the sole and exclusive manager of the City to manage, operate, maintain, promote, and market the Facilities during the Term. In such capacity, and except as otherwise expressly reserved under this Agreement to the City, and/or except for such matters as are subject to the approval of the City Commission or City Manager, Global shall have exclusive authority over the day-to-day operation, management and maintenance of the Facilities and all activities therein; provided that Global shall follow all policies and guidelines of the City, as may exist as of the Commencement Date of this Agreement, and as may be hereinafter established or amended by the City, in its sole judgment and discretion.

2.2 Scope of Services.

(a) General. Global shall perform and furnish such services, personnel, and systems, supplies, and materials, as necessary to manage, operate, maintain, promote, and market the Facilities in a manner consistent with the management, operation, maintenance, promotion, and marketing of other first-class facilities comparable to the Facilities.

(b) Additional Facilities. Subject to Section 4.1(c) hereof, the City may elect, upon sixty (60) days prior written notice to Global, at any time during the Term, to have Global operate, manage, maintain, promote, and market other City facilities. Such facilities are referred to herein, as elected by the City, as the “Additional Facilities”.

(c) Convention Center Booking Policies. The Greater Miami Convention and Visitors Bureau (GMCVB) has the primary responsibility for marketing the Convention Center for conventions and trade shows and, to carry out this responsibility, the GMCVB shall have control over bookings more than twenty-four (24) months in advance (i.e. long-term bookings). However, all such long-term bookings shall be coordinated with Global before commitment. Global will work proactively with the GMCVB in connection with the long-term bookings. The GMCVB may also book conventions and trade shows into the Convention Center with less than twenty-four (24) months’ lead time (i) if the dates have not been confirmed to other users; and (ii) subject to the prior written approval of Global. Additionally, subject to compliance with the Convention Center Booking Policies, attached

as Exhibit “B” hereto, and as same may be amended from time to time in the City’s sole judgment and discretion (Exhibit “B” and any amendments thereto, hereinafter referred to as the “Convention Center Booking Policies”), Global may book conventions, trade shows and any other Event at the Convention Center with more than twenty-four (24) months’ lead time if the dates have not been confirmed to other users. Global shall first consult with the GMCVB to verify whether a specific date (or dates) has (or have) not been confirmed (by the GMCVB) to another user, prior to Global booking such conventions, trade shows, and/or other Events.

Global shall have the primary responsibility and sole authority, subject to the Convention Center Booking Policies, to approve the scheduling of any Event in the Convention Center within the twenty-four (24) month booking window.

2.3 Specific Services.

Without limiting the generality of the foregoing, and except as otherwise expressly noted in this Agreement, Global shall have the primary responsibility and sole authority to:

- (a) Hire or otherwise engage, pay, train, supervise, and direct all employees and personnel it deems necessary for the management, operation, maintenance, promotion, and marketing of the Facilities in accordance with the provisions of this Agreement, and in a manner consistent with the management, operation, maintenance, promotion, and marketing of other first-class facilities comparable to the Facilities.
- (b) Provide, or cause to be provided, to the Advisory Board, periodic status reports as to performance, and provide (or cause to be provided) recommendations for improvements.
- (c) Except as otherwise provided in Section 10.2(a), negotiate; execute in its name, as manager for the City; deliver; administer; manage; and assure compliance with any and all leases, license agreements, occupancy agreements, rental agreements, booking commitments, concession agreements, supplier agreements, service contracts (including, without limitation, contracts for cleaning, decorating, set-up, emergency services, general maintenance, maintenance and inspection of HVAC systems, elevators, stage equipment, fire control panels and other safety equipment, staffing and personnel needs, including guards telephone, extermination, and other services which are necessary or appropriate), and any and all other contracts and agreements in connection with the management, maintenance, operation, promotion, and marketing of the Facilities. For purposes of the following subsections 2.3 (c) (1) and (2), the preceding agreements shall be referred to as the “Facilities Agreements.”

(1) Provided that (A) if any such Facilities Agreement or Agreements (other than those involving the license, lease, or rental of the Facilities for Events) has a term that extends beyond the remaining Term, and/or is of a non-traditional nature (such as, by example, co-promotion agreements), such Facilities Agreement (or Agreements) must be approved and executed by the City Manager; and (B) if any Facilities Agreement or Agreements (other than those involving the license, lease or rental of the Facilities for Events) is to be renewed or entered into at the commencement of a Fiscal Year, such Facilities Agreement (or Agreements) shall be reviewed in conjunction with the annual budget review process described in Section 5.3 hereof

(2) Provided further, that any contract entered into between Global and an Affiliate of Global, **and/or** a subsidiary, parent company, and/or sister company (i.e. a company owned by an entity which is an owner or Affiliate of Global) of Global shall be: (A) subject to the prior written approval of the City Manager; (B) shall be at terms and for prices customarily charged for comparable goods supplied and/or services furnished.; and (C) shall be competitive within the industry, subject to submittal of documentation evidencing the competitive nature of the goods and/or services submitted.

(3) Clarification of Certain Vendor Contracting Obligations. In connection with any vendor contracts (not including any contracts for the license, lease or rental of the Facilities) proposed to have a term that extends beyond the remaining term of this Agreement, or otherwise covered by Section 2.3(c)(1) of this Agreement, Global shall coordinate the procurement of such contracts through the City's Procurement Department, for approval by the City in accordance with its standard procurement requirements.

(4) Bond Financing. Global acknowledges that the Convention Center is financed in part with the proceeds of one or more series of tax-exempt bonds, and that, during the Term hereof, the City may choose, at its option, to finance additional improvements (whether to the Convention Center or to any or all of the other Facilities) with tax-exempt bonds (collectively, any present and future tax-exempt bonds encumbering a Facility or the Facilities shall be referred to as the "Bonds"). The City shall ensure that it is preserving the tax-exempt nature of the Bonds and complying with applicable Treasury regulations (the "Treasury Regulations") promulgated under the Internal Revenue Code of 1986, as amended (the "Code"). In this regard, Global acknowledges and agrees that in addition to any other contracts requiring the approval of the City Manager, to preserve the tax-exempt nature of the Bonds, each of the following described contracts must be approved by the City Manager, in writing, before execution thereof by Global:

(i) Any contract relating to the Facilities which grants a leasehold interest or other real estate interest in the Facilities (other than a short-term lease, license or rental for an Event at a Facility) or grants a right to use the Facilities on a basis different from that of the general public, unless such use satisfies a short term use exception as described in Section 1.141-3(d)(3) of the Treasury Regulations.

(ii) Any contract for the use of the Facilities for Events where the term of such use exceeds fifty (50) days in the aggregate, including all renewal options.

(iii) Any other contract relating to the Facilities which grants special legal entitlements to beneficial use of the Facilities or special economic benefits, within the meaning of Section 1.141-3(b)(7) of the Treasury Regulations, unless such contract satisfies an exception set forth in the Treasury Regulations.

(d) To the extent the City Agreements, and such other licenses, agreements, commitments, and/or contracts, as contemplated in Section 2.3 (c) hereof, are not already procured, or if such existing contracts expire or are terminated, procure, negotiate, execute (as manager for the City), administer, and assure compliance with all subsequent new licenses, agreements, commitments, and/or contracts with respect to the Facilities.

(e) Notwithstanding Sections 2.3 (c), (d), and (e) hereof, or any other provision of the Agreement, Global shall obtain the prior written approval of the City Manager before entering into any contract that is a Material Contract. For purposes of this Agreement, a "Material Contract" is defined as (1) any agreement that requires payments in excess of One Hundred Thousand Dollars (\$100,000) in any Fiscal Year; (2) any contract that permits or grants to any vendor or other party any right to (A) exclusively provide goods or services to a Facility or to the Facilities; or (B) advertise or market its role as an exclusive or official provider of goods or services for a Facility or the Facilities; (3) any contract that has a term that expires after the end of the Term; (4) contracts for Events that are owned, operated, promoted, or co-promoted by Global or any of its Affiliates or subsidiaries, its parent company, or a sister company, or wherein the revenues generated by an Event are otherwise shared with Global or any of its Affiliates or subsidiaries, its parent company, or a sister company; (5) any contract between Global and any of its Affiliates or subsidiaries, its parent company, or a sister company; and (6) a contract for the use, rental or occupancy of space in a Facility that is not substantially in the form of the City's standard form agreement for each Facility (attached as **Exhibit "E"** hereto). Additionally, a Material Contract shall also include any contract pursuant to which Global is sub-contracting with a third party for goods or services which Global is charged with supplying and/or performing under this Agreement;

(f) Follow each Facility's booking policies and hold the master set of all booking records and schedules (for each Facility). Global shall, from time to time, review the booking policies for each Facility and recommend changes, if any, to the City. Global's recommended changes to the Convention Center Booking Policies shall be subject to the review and recommendation of the Advisory Board. Notwithstanding the preceding, any changes and or other amendments to any Facility's booking policies shall be subject to prior review by the City Manager and final approval by the City Commission;

(g) (1) Maintain the Facilities (including, without limitation, all structural components thereof and all electrical, HVAC, life safety, mechanical, plumbing and other systems and equipment) in a good and clean condition consistent with other similar first-class facilities managed by Global, and in compliance with all Laws, ordinary wear and tear excepted. Maintenance responsibilities shall include, without limitation, repairs and replacements (structural, non-structural capital, and non-capital, but not including Capital Equipment and Capital Improvements unless funded by the City), and preventive maintenance, and equipment servicing.

(2) Global shall be responsible for ensuring that all maintenance, repairs, and replacements, shall be of a quality and class at least equal to that of the item being maintained, repaired, or replaced; provided that the City shall be responsible for, with cooperation and assistance of Global, undertaking all Capital Improvements and Capital Equipment purchases, as provided in Section 5.8.

(3) Notwithstanding anything in this subsection 2.3(g) or in the Agreement, at no time shall the maintenance of a Facility fall below the minimum standards required by Exhibit "F", attached hereto.

(4) At all times during the Term hereof, Global shall maintain in full force and effect service contracts with qualified and licensed service providers with respect to HVAC, roof, and elevator systems.

(5) Global shall keep on-site maintenance manuals and records reflecting its maintenance activities at each Facility, all of which shall be available for inspection, upon request, by the City Manager.

(6) Global shall submit to the City Manager, as part of its reporting requirements pursuant to Section 6.3 hereof, monthly reports specifying all maintenance work performed during such period, which reports shall be used and relied upon by the City (through its Facilities and Fleet Management Department or an independent consultant retained by the City) as part of annual Facility maintenance inspections and reviews.

(7) Global warrants and represents to the City that, prior to the Commencement Date, Global has inspected each Facility and hereby accepts each Facility "AS-IS, WHERE-IS and with ALL FAULTS."

(h) Rent, lease, or purchase all equipment and maintenance supplies necessary for the operation and maintenance of the Facilities; provided that the City, with direction, cooperation and assistance of Global, shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases as provided in Section 5.7;

(i) Establish and adjust prices, rates, and rate schedules, for the aforesaid licenses, agreements and contracts, and any other commitments relating to the Facilities and to be negotiated by Global in the course of its management, operation, maintenance, promotion and marketing of the Facilities. In determining such prices, rates, and rate schedules, Global shall evaluate comparable charges for similar goods and services at similar and/or competing facilities to establish a range of prices and rates.

Global shall consult with the City Manager about any proposed adjustments to the rate schedules at the Facilities.

(j) Pay, when due, on behalf of the City, all Operating Expenses from accounts established pursuant to Sections 5.6 hereof;

(k) After consultation with the City Manager and the City Attorney, and subject to the prior written approval of the City Attorney, institute, as manager for the City, and at the reasonable expense of the City, such legal actions or proceedings necessary or appropriate in connection with the operation of the Facilities, including, without limitation, to collect charges, rents or other revenues due to the City, or to cancel, terminate or sue for damages under any license, agreement, commitment or contract, for the breach thereof or default thereunder;

(l) Provide day-to-day administrative services in support of its management activities consistent with such supervisory services as necessary to ensure that the Facilities shall be operated in a first class manner and with standards comparable to other first class facilities comparable to the Facilities including, without limitation, the acquisition of services, equipment, supplies and facilities, internal budgeting and accounting, maintenance and property management, personnel management, record-keeping, collections and billing, and similar services;

(m) Engage in such advertising, solicitation, and such other marketing and promotional activities, as Global deems necessary to promote and market the Convention Center, conventions, trade shows, and other Events. Global shall work with

the GMCVB, Facility users, and/or such City boards, agencies, and committees as may be determined by the City Manager, in his or her sole judgment and discretion, to market and promote the Facilities, and engage in all future activities necessary to develop and maintain current and relevant strategic marketing plans. Global also shall submit to the City, no later than October 1 of each Fiscal Year, an update to the strategic five (5) year plan for marketing and promotion of each Facility, as required in Section 6.4 hereof;

(n) Notwithstanding subsection (m) above, or any other provision of this Agreement, Global shall not engage in the selling of sponsorships, advertising inventory, product rights, or naming rights for the Facilities without the prior written approval of the City Manager or (if required pursuant to the City Code) of the City Commission. The City reserves all so-called “naming rights” (i.e. the right to name the Facilities or portions thereof), and all revenues derived therefrom, to any and all exterior portions of the Facilities including, without limitation, any sponsorship names and/or rights in connection with such naming rights. The City also reserves approval over all naming rights to any and all interior portions of the Facilities including, without limitation, any sponsorship names and/or rights in connection with such naming rights, and all revenues derived therefrom; except that revenues from interior naming rights and/or sponsorship agreements negotiated by Global which (as provided in the terms contained therein) are intended to be effective for a limited number of years (as opposed to on an indefinite or permanent basis), which may or may not exceed the Term, may be included by Global as Gross Operating Revenues, but only as received, on a year to year basis. Notwithstanding anything in this subsection (n), Global shall not be precluded from allowing Event sponsors from using temporary banners and temporary signage in the exterior and/or interior portions of the Facilities throughout the duration of the Event, subject to the prior written approval of the City Manager. Notwithstanding anything in this subsection (n) or in this Agreement, no sponsorships, advertising, product rights, and/or naming rights negotiated by Global, and/or temporary banners or temporary signage negotiated by Global for Event sponsors, shall include the names of any company selling the following types of products (“Prohibited Names”): guns, tobacco, or sexual products;

(o) Engage a third party (currently Smart City) to operate the Convention Center’s telephone, computer, internet and all other telecommunications services, systems, storage, and security;

(p) Global shall include a provision in the Event Planning Guide notifying all clients that the City may activate or create a display, in the public pre-function space and on all digital assets, at no cost to the City or the Convention Center customer.

(p) Maintain ongoing relationships with various boards and committees of the City, including, without limitation, the Advisory Board;

(q) Maintain an ongoing relationship with the GMCVB;

(r) Act as a collection agent for the City on sales taxes, and remit such sales taxes to the State of Florida such;

(s) Immediately inform the City of any condition of which Global becomes aware which Global believes impairs the structural soundness or sound operating condition of a Facility. It is understood that the City will make its own determination as to the structural soundness of a Facility, or any other defect that might be noted by Global, and as to the necessity for repair. The City may, subject to appropriation, make available funds necessary to correct such a condition, as, where, if, and to the extent that the City deems any repair or correction is necessary; provided, however, that to the extent that such a condition materially interferes with Global's ability to manage the Facility, Global shall have the right to terminate the Agreement pursuant to Section 12.2 hereof;

(t) Global shall have the right to act without consent of the City in situations which Global determines to be an emergency with respect to the health, safety, welfare, and protection of the general public, including spending or committing funds held in a Facility account described in Section 5.6 hereof, even if such expenses are not budgeted; provided, however, Global shall have no obligation under any circumstance to spend or commit funds, other than funds then available in such Facility account, for any such purpose. Immediately following such action, Global shall inform the City Manager of the emergency situation and the action taken, and the City shall pay Global, or deposit into such Facility account, the amount of funds, if any, spent or committed by Global pursuant to this subsection (v), in excess of budgeted amounts.

(u) Global shall not sub-lease or license any portion of a Facility to other than short-term users. Without limiting Global's and/or the City's rights to require any and all necessary agreements and documentation from users of a Facility, Global shall require that all users of the Facility provide certificates of insurance evidencing appropriate insurance, as required by "Insurance Requirements for Users/Lessees of the Facilities," attached as Exhibit "H" hereto. Copies of these certificates are to be furnished to the City Manager. Such insurance is to be kept in force at all times by all lessees, licensees, users, and concessionaires. All such liability policies shall name the City of Miami Beach, Florida, and Global as additional insureds. Without limiting Global's and/or the City's rights to require any and all necessary agreements and documentation from users of a Facility, Global shall utilize the City's standard form agreements for the use, rental or occupancy of space in each Facility (as attached in Exhibit "E" hereto).

2.4 [Intentionally Omitted]

2.5 Right of Entry Reserved.

Representatives of the City shall have the right, upon reasonable notice to Global, to enter all portions of a Facility to inspect same; to observe the performance of Global of its obligations under this Agreement; to install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or other matters in, on, or about the Facilities; or to do any act or thing which the City may be obligated or have the right to do under this Agreement or otherwise (i.e. acting in its proprietary and/or regulatory capacity). The City shall not unreasonably interfere with the operations of Global hereunder, and the City shall use reasonable commercial efforts to ensure that its actions are conducted such that disruption of Global's operations shall be kept to a minimum. Nothing contained in this Section is intended or shall be construed to limit any other rights of the City under this Agreement. Nothing in this Section shall impose or be construed to impose upon the City any independent obligation to construct, maintain or make repairs, replacements, alterations, additions or improvements, or create any independent liability for any failure to do so.

3. **Term and Renewal Term.**

3.1 Term.

The Initial Term of this Agreement shall commence at 12:01 A.M. on October 1, 2024 ("Commencement Date"), and end at midnight on September 30, 2029, unless earlier terminated pursuant to the provisions of this Agreement.

3.2 Renewal Term.

The City shall have the right, at its sole option and discretion, to extend this Agreement for a single two-year renewal term (the "Renewal Term") to be exercised by giving written notice to Global of such intention not less than ninety (90) days prior to the expiration of the initial Term. In no event shall the term of this Agreement extend beyond September 30, 2031, without the prior approval of the City Commission.

4. **Global's Compensation.**

4.1 Management Fee

(a) As consideration to Global for providing the services herein, the City shall pay Global during the Term hereof, an annual base management fee (the "Management Fee") for the performance of the services hereunder with respect to each Fiscal Year. For the first (1st) Fiscal Year, the Management Fee shall be in the amount of \$360,000, including \$15,000 for the management of Collins Canal Park and the Collins Canal Mangroves, and \$20,000

for the management of the Carl Fisher Clubhouse and Annex. The Management Fee, including fees for the management of Collins Canal Park, Collins Canal Mangroves, Carl Fisher Clubhouse and Annex, for each succeeding Fiscal Year shall be the same as for the preceding Fiscal Year (measured on a non-prorated basis) subject to an upward adjustment each Fiscal Year of the lesser of the current year CPI or three percent (3%).

(a) The Management Fee shall be payable in equal monthly installments due on or before the last day of each month during the Fiscal Year, and Global shall be entitled to draw such amounts from the account described in Section 5.6.

(b) The Management Fee shall be subject to further upward adjustment, as mutually agreed to by the parties, in the event the City elects to have Global operate, manage, maintenance, market, and promote Additional Facilities, as provided in Section 2.2(b) hereof.

4.2 Executive Compensation.

(a) Executive Compensation Amount. As part of the development of each annual operating budget for a Fiscal Year pursuant to Section 5.3 hereof, the City and Global agree to determine and set, in writing, the amounts of Executive Employee Salaries for Executive Level Employees of Global and any Related Party of Global at the Facilities to be paid in any such Fiscal Year, which amounts shall be binding against the City and Global (the "Executive Compensation Amount"); provided that the compensation amounts in subsequent Fiscal Years shall not exceed the amounts for the immediately preceding Fiscal Year by more than ten (10%) percent.

The Executive Compensation Amount shall be paid to applicable Executive Level Employees from the account described in Section 5.6 on the same basis as those of other employees of Global at the Facilities are paid.

(b) Executive Employee Benefit/Bonus Amount. The Executive Level Employees of Global and any Related Party of Global at the Facilities shall be entitled to receive the Executive Employee Benefit/Bonus Amount, which Amount shall be paid or shall accrue, as applicable, to the Executive Level Employees, on the same basis as those of other employees of Global at the Facilities are paid or accrue. Under no circumstances shall any portion of the Executive Employee Benefit/Bonus Amount be based to any extent on the net profits of any Facility managed by Global pursuant to this Agreement.

4.3 Incentive Fee.

(a) Amount. In addition to the Management Fee, Global shall be entitled to receive an annual incentive fee (“Incentive Fee”) each Fiscal Year, pursuant to the terms of Exhibit J, during the Term and any Renewal Term of the Agreement.

4.4 Limitation. Notwithstanding anything to the contrary set forth herein, in no event shall the sum of (i) the Incentive Fee, plus (ii) the Executive Benefit/Bonus Amount payable with respect to any Fiscal Year, exceed the sum of (x) the Management Fee, plus (y) the Executive Compensation Amount payable with respect to such Fiscal Year.

(b) Payment. The Incentive Fee shall be payable to Global within 120 days of the end of a Fiscal Year. Global will thereupon be entitled to deduct the amount of such Fee from the account described in Section 5.6 hereof; provided that, to the extent that Global projects that such a deduction would leave insufficient funds in such account to cover Operating Expenses for the remainder of the then-current fiscal quarter, Global shall be entitled not to deduct all or a portion of such fee from such account, and, upon notice thereof from Global, the City shall promptly pay Global the amount of the Fee that has not been deducted from such account.

5. **Funding; Budgets; Bank Accounts.**

5.1 Operating Funds.

Subject to Section 5.2 hereof, following the approval of the annual operating budget for a Fiscal Year (including, without limitation, any annual operating budget applicable to the first Fiscal Year during the Term hereof), the City shall make available to Global funds necessary to pay all Operating Expenses incurred or accrued in such Fiscal Year. To the extent that Gross Operating Revenues during a calendar month are insufficient, , to cover Operating Expenses and with respect to the first quarter of a Fiscal Year, the amount of the projected Incentive Fee payable pursuant to Section 4.3 hereof for the prior Fiscal Year (“Cash Flow Shortfall”) for such period, the City shall advance funds to Global as follows: Within thirty (30) days following the end of a month, Global will submit to the City Manager, for his or her approval, a statement/invoice summarizing the deficit or surplus in a Facility account (described in Section 5.6 hereof) over the agreed upon imprest combined Facility account balance for the Convention Center. Such imprest amount shall not exceed \$1,200,000, and will represent the combined balance of the Convention Center Facility account (Convention Center) at the end of each month. If, at

the end of such month, the combined operating balance is greater than \$1,200,000, the surplus amount over \$1,200,000 will be given back to the City in the form of a check, accompanied by a statement/invoice with appropriate bank reconciliations for both operating accounts as back up. If, at the end of such month, the combined operating balance is less than \$1,200,000, the deficit and the appropriate bank reconciliations documenting such deficit will be invoiced to the City for payment.

5.2 Non-Funding.

(a) The City shall have no obligation to provide funds for the payment of Operating Expenses incurred or committed for after the date Global receives written notice (an "Appropriation Deficiency Notice") of the fact that insufficient funds or no funds have been appropriated for a Facility or Facilities.

(b) If the Appropriation Deficiency Notice is of insufficient funds, the City shall pay all Operating Expenses incurred or committed for after such date which are within the aggregate level of appropriated funds specified in the Appropriation Deficiency Notice. The City shall pay all Operating Expenses incurred or committed for prior to the date Global receives the Appropriation Deficiency Notice. Any failure by the City to provide funds (beyond the aggregate level of appropriated funds) for the payment of Operating Expenses incurred or committed for after Global receives an Appropriation Deficiency Notice shall not be a breach of or default under this Agreement by the City.

(c) If the City appropriates funds at (or reduces appropriated funds to) a level that, in Global's reasonable business judgment and discretion, materially renders its continued management of a Facility not economically viable for Global, Global may, at its option, either (i) continue management of the Facility at the appropriated reduced funding reduced level; or (ii) terminate this Agreement pursuant to Section 12.2 (a) (with the effect set forth in Section 12.3).

5.3 Annual Budget; Cash Flow Budget.

(a) As part of the Annual Management Plan described in Section 6.2 hereof, on or before the date specified by the City Manager each year, Global will prepare an annual operating budget for each Facility for the next Fiscal Year to meet the scope of services under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected net operating deficit or surplus. Each such budget shall be submitted together with details, including, without limitation, salary ranges for each Fiscal Year, and the benefits packages to be offered to Global employees and funded by the City as an Operating Expense.

(b) Global shall prepare and submit to the City Manager, prior to June 1st of each Fiscal Year, an annual cash flow budget for the succeeding Fiscal Year based upon the approved operating budget for such Fiscal Year. The City shall transfer to Global, on a monthly basis, those funds so approved and necessary for the operation, management, maintenance, marketing, and promotion of each Facility (including, without limitation, the Operating Expenses for such month), and Global shall deposit such funds, together with Gross Operating Revenues of the respective Facility collected by Global, in that Facility's account.

(c) The annual budgets referred to in Sections 5.3 (a) and (b) hereof shall be reviewed by, and are subject to the approval of, the City Manager, and the Mayor and the City Commission, respectively. Global recognizes that the City is a municipal corporation created pursuant to the laws of the State of Florida and is bound by general and special laws pertaining to its budget process and the appropriation and expenditure of funds. Therefore, Global shall participate in the City's budget process, including, without limitation, an administrative review, a review by the City's Budget Advisory Committee, City Commission review, and review and comment by citizens at two (2) public hearings in the month of September, prior to approval of any proposed Facility operating budget. During the Term of this Agreement, the City Manager shall notify Global of any changes to the annual operating budget and the cash flow funding budget of a Facility for the succeeding Fiscal Year, proposed by Global (and with such changes, if any, as are made by the City prior to October 1st of each Fiscal Year). Such budgets shall be the Approved Budgets for the following Fiscal Year; provided that if the annual operating budget or the annual cash flow budget of a Facility, as proposed by Global, is modified or reduced by the City in a manner which, in Global's reasonable business judgment and discretion, would materially impair Global's ability to manage the Facility, then Global shall have the right to terminate this Agreement pursuant to Section 12.2 (a) (with the effect set forth in Section 12.3).

(d) The parties acknowledge that, prior to the Commencement Date of this Agreement, Global has provided the City a proposed operating budget for the first Fiscal Year. Such proposed budget shall be treated in the same manner and create the same rights as obtained following the submission of annual budgets as described in Section 5.3(c) hereof, including the approval rights set forth in such section. Once approved, such budget (with such changes as are made to such budget through the approval process) shall become the Approved Budget for the first Fiscal Year.

5.4 Budget Modifications Initiated by Global.

Global may submit to the City Manager, for review and approval by the City Manager and the Mayor and the City Commission, respectively, at any time prior to the

close of a Fiscal Year, a supplemental or revised annual operating budget or cash flow budget for such Fiscal Year. Upon the approval of the City Manager and the Mayor and the City Commission of such supplemental or revised budget, the Approved Budget for such Fiscal Year shall be deemed amended to incorporate such supplemental or revised budget. The Approved Budget may only be amended as set forth in Section 5.5 hereof, or in the two preceding sentences of this Section 5.4, except that Global shall have the right to amend the Approved Budget as may be necessary or appropriate as the result of the scheduling by Global of additional Events at a Facility (and the receipt of additional Gross Operating Revenues and/or the incurrence of additional Operating Expenses arising from the scheduling of additional Events at that Facility) as long as, prior to the scheduling of such Event(s), Global has a reasonable expectation that the projected Net Operating Loss for the Fiscal Year, as set forth in the Approved Budget, would not be increased, or that the Net Operating Profit for the Fiscal Year, as set forth in the Approved Budgets, would not be decreased, as a result of such additional Event(s).

5.5 Budget Modifications Initiated by the City.

In the event that it appears reasonably likely, in any Fiscal Year during the Term hereof, that the actual Net Operating Loss for such Fiscal Year will be larger than projected in the annual operating budget for such Fiscal Year, or that the actual Net Operating Profit for such Fiscal Year will be less than projected in the annual operating budget for such Fiscal Year, the City Manager may request from Global a plan for reduction of Operating Expenses to a level consistent with the budgeted Net Operating Loss/Profit amounts. Global shall forthwith comply with any such expense reduction requested by the City Manager, and the Approved Budget for such Fiscal Year shall be modified accordingly; provided that if the annual operating budget or annual cash flow budget is modified in a manner which, in Global's reasonable business judgment and discretion, would materially impair Global's ability to manage the Facility, Global shall have the right to terminate this Agreement pursuant to Section 12.2(a) (with the effect set forth in Section 12.3), and provided further that Global shall not be construed to have breached its obligations under this Agreement if such alleged breach has been caused by the limitations in the Fiscal Year's budget.

5.6 Receipts and Disbursements.

Global shall establish and maintain, in one or more depositories of a banking institution in Miami Beach designated by the City Manager, one or more operating bank accounts for each Facility, in the name of the City, with Global as manager, and with signature authority in such employees of Global as Global shall determine. All revenues collected by Global from the operation of a respective Facility shall be deposited into such accounts and Operating Expenses (other than Operating Expenses to be paid from an

account described in Section 5.7 hereof) shall be paid by Global as manager for the City from such accounts. All revenues collected by Global arising from operation of a Facility, including, without limitation, Facility or equipment rentals, utility rental agreements, or any other source, are the sole property of the City, held in trust by Global for the City for application as provided herein. Any amounts remaining in such accounts upon termination of this Agreement (for any reason), after payment of all outstanding Operating Expenses, shall be promptly paid by Global to the City.

5.7 Capital Improvements; Capital Equipment.

The obligation to pay for, and authority to perform, direct and supervise, Capital Improvements and Capital Equipment purchases shall remain with the City, and will not be considered Operating Expenses. The Annual Management Plan submitted pursuant to Section 6.2 hereof shall include Global's recommendation for Capital Improvements and Capital Equipment purchases to be accomplished during the year and shall be accompanied by an estimate of the cost of all such items and projects and a request that the City budget funds therefore. Notwithstanding the preceding or anything contained in this Agreement, the City shall retain the sole discretion and authority to determine whether, and to what level, to fund Capital Improvements and Capital Equipment purchases for a Facility.

Notwithstanding the preceding paragraph or anything contained in this Agreement, Global shall, at the request of the City Manager, pro-actively participate, at a corporate level, and including the general manager, with (and/or, where requested, on behalf of) the City in future discussions relating to any proposed long-term expansion and/or improvements for the Convention Center.

Global shall adopt a Facilities Condition Assessment software to help track the health and useful service life of Facilities' building systems.

5.8 Limitation of Global Liability.

Notwithstanding any provision herein to the contrary, and except for Global's express indemnification undertakings in Section 8.1 hereof, its express reimbursement undertakings in Section 6.1(b), and the internship fund contribution in Section 5.10, Global shall have no obligation to fund any cost, expense or liability with respect to the operation, management, marketing, and promotion of the Facilities. Furthermore, the parties agree that Global's obligations under this Agreement are subject in all respects to the limitations of the City approved Operating and Capital Budgets, and are contingent upon and subject to the City making available, in a timely fashion, the funds budgeted for and/or reasonably

required by Global to carry out such obligations during the Term. Furthermore, Global shall have no liability with respect to the failure of the terms of this Agreement to comply with the Code or the Treasury Regulations. Notwithstanding the preceding sentence, nothing in this Section 5.9 shall be deemed to waive any liability that Global may have as a result of any act, omission, or failure to perform by Global under this Agreement, which results in non-compliance with the Code or the Treasury Regulations.

5.9 Global Capital Contribution/Scholarship Contribution/Public Benefits/Green Initiatives/Public Art.

(a) Internships. Beginning with the Fiscal Year commencing October 1, 2024, Global shall contribute to the City Twenty Thousand Dollars (\$20,000) annually during the Term hereof toward the establishment of an internship fund, which will give preference to qualifying in-need Miami Beach residents pursuing a career in facility management and/or the hospitality and tourism industry (the “Internship Contribution”). Said fund will be administered by the City and Global will use good faith, diligent efforts to identify and recommend qualified applicants. Payment of the Internship Contribution shall be made within thirty (30) days of the commencement of each Fiscal Year during the Term hereof, beginning with the Fiscal Year commencing October 1, 2024.

(b) Other Public Benefit(s) to be Provided by Global Events

(1) Each Fiscal Year during the Term hereof, Global shall produce a minimum of five (5) events, including, but not limited to, Senior events, a Teacher Appreciation Event, and other comparable size event(s) as determined by the City, and shall be considered a City Use pursuant to Section 13.1(a), and the City shall be responsible for any direct out-of-pocket (or other) expenses incurred in connection with these events; provided, however, Global shall not be charged any expense for utilities in connection with these events.

ii. Events shall be free and open to the public, and the Teacher Appreciation Event shall be open to all Miami Beach school teachers and administrators.

iii. Global shall provide all staffing for the Events.

v. Global shall have the ability to secure sponsors or other revenue generating activities or events which would be considered Gross Operating Revenue; provided that such activities and/or events are ancillary to, related to, and/or otherwise compliment the Events (i.e. senior lifestyle exhibits, health and fitness expo, etc.).

(c) Sustainability

(1) Global shall use commercially reasonable efforts to implement the use of so-called “green” cleaning chemicals.

(2) Global shall use commercially reasonable efforts to replace paper products with products manufactured from recycled waste.

(3) Custodial and Building Maintenance Services, Global shall, so long as the following can be done without incurring any additional labor costs:

- a. Separate waste materials including recycling and composting
 - i. Track related metrics
 - ii. maintain a full recycling program including paper, cardboard, glass, metal cans, and plastics.
 - iii. Divert waste as feasible, through recycling of materials and working with local food banks, shelters, or nonprofits for donation of materials and leftover food.
- b. Any equipment and fixtures that are replaced should be energy/water efficient
 - i. Third-party certifications: EnergyStar, WaterSense
- c. Benchmark energy and water use through Energy Star Portfolio Manager
 - i. Join BE305 program to take advantage of educational resources
- d. Utilize environmentally friendly cleaning products
 - i. Environmental Protection Agency (EPA) certifications: Safer Choice, Design for the Environment (DfE)
<https://www.epa.gov/greenerproducts/identifying-greener-cleaning-products>

(4) Capital Improvements, Global shall:

- a. Identify opportunities for on-site renewable energy project(s) and energy efficiency improvements.
- b. Identify opportunities for on-site stormwater management projects and flood mitigation projects, including opportunities for green infrastructure.

(5) Procurement and Contract Management, Global shall:

- a. Encourage the procurement of environmentally preferred products and services, as outlined in the city's Sustainable and Resilient Procurement Policy (<https://www.mbrisingabove.com/climate-mitigation/sustainable-and-resilient-procurement/>).
 - (6) Groundskeeping/Landscaping, Global shall:
 - a. Follow Florida Friendly Landscaping Principles (<https://www.mbrisingabove.com/climate-adaptation/green-infrastructure/native-florida-friendly-landscaping/>)
 - b. Mitigate extreme heat impacts on grounds through strategies like planting canopy trees and providing shade structures
 - (7) Technology, Global shall:
 - a. Recycle or donate old equipment or devices, as feasible
 - (8) Parking/Transportation Operations, Global shall work with the City for development of a transportation management plan.
- (d) Public Art/Photography/Videography
- (1) Care and Maintenance of Public Art
- a. The Public Art located throughout the Facilities is part of the City of Miami Beach's Art in Public Places (AiPP) collection. Global shall be responsible for:
 - i. Using commercially reasonable efforts (including requiring each show organizer) to ensure proper care is observed by event staff, vendors, licensees, invitees, guests, etc. of such art;
 - ii. Immediately notify the City should damage occur to any artwork. Global shall include a provision in the Event Planning Guides that clients are responsible for any damage to public artwork directly caused by their employees, agents, vendors, licensees, and invitees.
 - iii. Cleaning:
 - 1. Neither Global nor any show organizer shall attempt to clean or maintain the artwork.
 - 2. Works of art requiring specialized treatment or upkeep shall be treated by qualified restoration professionals. The City will be responsible for assessing the damage and determining the repair procedures.
 - iv. Assessments:
 - 1. The City will conduct regular site visits to the Public Art before, during and after events, to assess the condition of

the Public Art. The condition of the Public Art will be documents through AiPP time-stamped photographs and videos.

- b. Photography and Videography of Public Art For Commercial Purposes – all copyrights, trademarks, service marks, logos and intellectual property rights in and to the artwork, including any right to commercially exploit the same (all of the foregoing, collectively and individually, the “Intellectual Property”) shall be the exclusive property of the artist(s) who created the Public Art.
- c. Reproduction of the Public Art. Any reproduction of the Public Art for purposes (including on merchandise or in commercial advertising for third party products) shall be subject to the prior written approval of the artist(s) who created the Public Art. Global shall include in its agreements with event organizers language acknowledging the foregoing provision of subparagraph (b) and this subparagraph (c). In connection with any such reproduction and publication by a third party, the party shall be solely responsible for arranging any consent and/or credit with Artist, and neither the City nor Global shall have any liability to Artist and/or to third parties as a result of any failure by third parties to obtain authorization by Artist, or give credit to Artist, for such third party uses.
- d. List of Public Art as of October 1, 2024:
 - i. Farah Al Qasimi *Plant Market/Stray Flowers in Swimming Pool/Still Life with Sample Text and Pina Coladas*
 - ii. Amoako Boafo *Cobalt Blue Earring*
 - iii. Ebony G. Patterson *...as the garden secrets a swarm of monarchs feast*
 - iv. Ellen Harvey *Atlantis*
 - v. Joseph Kosuth *Located World*
 - vi. Sanford Biggers *Somethin’ Close to Nothin’*
 - vii. Juana Valdes *Colored Bone China Rags*
 - viii. Anneke Eussen *It's Alright*
 - ix. Joep van Lieshout *Humanoids*
 - x. Sarah Morris *Morris Lapidus*
 - xi. Franz Ackermann *About Sand*

(2) Signage and Advertising. Global shall ensure no signs or advertising identifying Global (its agents, principals, parent company, etc.) or its subcontractor, vendors, licensees, sponsors, invitees shall be placed on the premises without written approval by the City. Global shall ensure any signage and advertising is

in compliance with any existing or developed signage agreement with the City for the Facilities.

6. Records, Audits and Reports.

6.1 Records and Audits.

(a) Global shall keep full and accurate accounting records relating to its activities at the Facilities, in accordance with generally accepted accounting principles. Global shall maintain a system of bookkeeping adequate for its operations hereunder. Global shall give the City's authorized representatives access to such books and records, all of which will be maintained at the Convention Center, during reasonable business hours and upon reasonable advance notice. Global shall keep and preserve for at least three (3) years following each Fiscal Year, or for as long as such records are required to be retained pursuant to Florida Public Records Law (whichever is longer), all sales slips, rental and/or other use agreements, purchase orders, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Gross Operating Revenues and Operating Expenses for such period. In addition, on or before October 31st following each Fiscal Year during the Term hereof, and as required by the City pursuant to its annual financial audit(s) of the Facilities, Global shall furnish to the City unaudited financial statements, including a balance sheet, a statement of profit and loss, and a statement of cash flow, for each Facility, for the preceding Fiscal Year, prepared in accordance with generally accepted accounting principles. The City shall thereafter cause such statements to be audited by, or on behalf of, the City, which audit shall contain an opinion expressed by the independent auditor of the accuracy of the financial records kept by Global and of amounts due to the City. The audit shall also provide a certification of Gross Operating Revenues and Operating Expenses for such Fiscal Year. The City audit shall be conducted by a reputable firm selected by the City. Notwithstanding anything to the contrary herein, the cost of such audit shall be a City expense (and not an Operating Expense).

(b) Notwithstanding subsection (a) above, the City Manager shall have the right, at any time (and from time to time), to cause nationally recognized independent auditors to audit all of the books of Global relating to Gross Operating Revenues and Operating Expenses, including, without limitation, cash register tapes, credit card invoices, duplicate deposit tapes, and invoices. The costs incurred by the City in conducting such audit shall be for the City's account and shall not be considered an Operating Expense, except as otherwise provided in the remainder of this paragraph. If any such audit demonstrates that the Gross Operating Revenues or Operating Expenses reflected in any financial statements prepared by Global and audited as specified in subsection (a) above, are understated (in the case of Operating Expenses) or overstated (in the case of Gross

Operating Revenues), in either case by more than five percent (5%), Global shall promptly pay to the City the reasonable cost of such audit. In addition, Global shall promptly refund to the City any portion of the Incentive Fee paid for the Fiscal Year concerned which is attributable to an understatement of Operating Expenses or overstatement of Gross Operating Revenues, or both, as the case may be, whether or not the understatement or overstatement or both exceeds five percent (5%) of Operating Expenses or Gross Operating Revenues, respectively. The City specifically reserves the right to withhold or delay any funds to Global if the previous audited findings have not been satisfactorily resolved; however, any undisputed compensation owed to Global must be paid at least annually.

6.2 Annual Management Plan.

(a) Global shall provide to the City, on or before May 1 of each Fiscal Year during the Term, a *draft* Annual Management Plan, and on or before August 1 of each Fiscal Year during the Term hereof, a final Annual Management Plan addressing each Facility, which shall include, without limitation, the annual operating budget (described in Section 5.3 hereof) for the next Fiscal Year, information regarding Global's anticipated operations for such Fiscal Year, including revenue projections, planned operating maintenance activities by Global, requested Capital Improvements and Capital Equipment purchases (and an anticipated budget therefore), anticipated Events, anticipated sales, marketing and promotional activities; planned equipment and furnishings purchases; and an updated inventory of all Capital Equipment (including, without limitation, furniture, fixtures and equipment) at each Facility.

The Annual Management Plan shall be subject to review, comment, and approval by the City Manager. Global shall have thirty (30) days from receipt of the revised Plan from the City to incorporate the City's comments into the Plan. Upon approval by the City Manager of the final Plan, such Annual Management Plan shall constitute the operating program for Global for the following Fiscal Year.

6.3 Reports.

(a) By the twenty-fifth day of each month during the Term hereof, Global shall provide to the City a written monthly report, in a form approved by the City Manager (which form may be similar to that used in other Global-managed facilities), setting forth each Facility's anticipated activities and financial condition for the upcoming month, and reporting on the prior month's activities and finances. Such monthly report shall include, without limitation:

(i) A balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such prior month, and year

to date, in accordance with generally accepted accounting principles. Such records and reports shall also include a comparison of Gross Operating Revenues and Operating Expenses for the corresponding months in the prior two (2) Fiscal Years;

(ii) Summary of Events held in the prior month and future bookings scheduled for upcoming month(s), and separate cash receipts and disbursements reports for each Event held at a Facility during such month. In addition, a summary of all exit conferences for Events at the Convention Center; completed customer satisfaction surveys; and sales and marketing reports, and any updates thereto, as also required pursuant to the Marketing and Promotion Plan in Section 6.4 hereof. A copy of the portion of the monthly report pertaining to the Convention Center also shall be provided to the Advisory Board.

(iii) A report specifying all maintenance work performed at each Facility during the prior month, and work planned for the upcoming month(s) including, without limitation, with respect to the Comprehensive Preventive Maintenance Program and the maintenance of Capital Equipment, in accordance with the Minimum Operating and Maintenance Standards (attached hereto as Exhibit "F"). A copy of the portion of the monthly report pertaining to the Convention Center shall also be provided to the Advisory Board.

(iv) A listing of any incentives given, or fees waived, by Event, at each Facility in the prior month and upcoming requests; and

(v) Disclosure of any third-party commissions (whether paid or exchanged for in-kind services) and report of any trades and/or barter in the prior month.

(b) On or before June 1st of each Fiscal Year during the Term hereof, Global shall provide, or cause to be provided, to the City, as part of its Annual Management Plan required pursuant to Section 6.2 hereof, an inventory of Capital Equipment for each Facility.

(c) Upon receipt thereof from the depository bank(s) described in Sections 5.6 hereof, Global shall provide, or cause to be provided, to the City (on a monthly basis), copies of all bank statements concerning (respectively) the Facility operating account.

(d) Within thirty (30) days after each Fiscal Year, Global shall submit a report to the City detailing the event planners (the "Planners") used by organizations holding Events at the Facilities within such Fiscal Year, with such reports to include:

(i) all events held by each Planner in the reporting period;

- (ii) the number of events brought in by each Planner in each event tier;
- (iii) the total discount given for each event in the reporting period;
- (iv) the total amount discounted per Planner for the reporting period; and
- (v) a written explanation of the total amount discounted for each Planner.

6.4 Five Year Marketing/Promotion Plan.

(a) An update of the Facility's Marketing and Promotion Plan shall be submitted to the City annually on October 1st of each Fiscal Year.

Global will collaborate with the City on the development of (and all updates to) the Marketing and Promotion Plan, and shall solicit comments from the City Manager, as well as the Advisory Board and the GMCVB (as to the portion of the Plan addressing the Convention Center), and such other agencies, boards and committees as the City Manager may deem necessary, in his sole discretion and judgment.

(b) The Marketing and Promotion Plan shall address, in detail, Global's approaches, efforts, and timelines for accomplishing the following marketing and promotional obligations (as part of Global's comprehensive approach to marketing the Facilities):

- 1) Global to provide continuously during the Term hereof, an in-house ad-agency capability to place Event-related advertising.
- 2) Global to provide a report on sales and marketing efforts, as provided for in Section 6.3.

6.5 Special Reports.

Global shall prepare special reports from time to time, at the request of the City Manager, to the extent that such reports shall cover subject matter which is/are within the normal scope of Global's services under this Agreement.

6.6 Customer Satisfaction Surveys.

Within ninety (90) days of the Effective Date, Global shall execute an agreement (the "Survey Agreement," attached and incorporated hereto as Exhibit [x] upon execution) with an independent third-party survey company (the "Survey Company") for the collection of customer satisfaction surveys ("Surveys") during the Term and any Renewal

Terms. Global shall ensure that the Survey Agreement (1) requires the Survey Company to prepare and send a customer satisfaction survey to the event organizers of each Event within thirty (30) days of an Event ending, (2) grants Global and the City dual access to the Survey results at all times and (3) provides the parties with a monthly report containing the results of the Surveys collected for Events held during the previous month.

6.7 Cybersecurity.

To assist the City in its compliance with Florida Statute 282.3185, Global shall use good faith efforts to notify the City within twenty-four (24) hours of experiencing a cybersecurity incident which impacts the City network, or six (6) hours of experiencing a ransomware incident which impacts the City network. The notification shall include::

- (a) a summary of the facts surrounding the cybersecurity incident or ransomware incident;
- (b) the type of data compromised by the cybersecurity incident or ransomware incident;
- (c) the estimated fiscal impact of the cybersecurity incident or ransomware incident;
- (d) the parties other than the City and Global impacted by the cybersecurity incident or ransomware incident;
- (e) in the case of a ransomware incident, the details of the ransom demanded;
- and
- (f) steps already taken (if any) to resolve the incident.

Global shall notify the City, in a timely manner, of a Global network cybersecurity incident that may affect City economic security, infrastructure, general security, brand, reputation, and/or public health and safety.

7. **Employees.**

7.1 Global Employees.

(a) Global shall select, hire, train, and employ such number of employees as Global deems necessary or appropriate to satisfy its responsibilities under this Agreement. Global shall use its best efforts to recruit employees who will be proficient, productive, and courteous to patrons consistent with standards employed at comparable first-class facilities. Global shall have authority to hire, terminate and discipline any and all such personnel working at the Facilities.

(b) General Manager. Global shall assign a competent, full-time general manager to oversee Global's responsibilities under this Agreement, who shall be based at the

Convention Center. As of the Commencement Date, the general manager shall be Freddie Peterson. Prior to Global's appointment of any replacement general manager, Global shall consult with the City Manager with respect to the qualifications of any proposed candidate(s). The City Manager shall have prior written approval of any replacement general manager hired by Global (prior to Global finalizing any such hiring).

(c) Neither the general manager nor any and all other Global employees (whether based at the Facilities or not) shall, for any purpose, be considered to be employees of the City, and Global shall be solely responsible for their supervision and daily direction and control, and for setting and paying (as an Operating Expense) their compensation, federal income tax withholding, and any employee benefits.

(d) Executive Level Employee Approval. Prior to the appointment of any Executive Level Employee, Global shall provide resume(s) of candidate(s) and offer the City a reasonable opportunity to review and comment on final candidates for all Executive Level Employee (as defined herein) positions/roles prior to hiring.

(e) Should the City at any time and in its reasonable discretion determine, based on non-discriminatory reasons, that any of Global's employees, including the General Manager, to be a detriment to the operation of the Facilities: (1) Global shall, upon written request of the City, meet with the City to discuss the City's concerns, with each party acting in good faith to resolve the matter, and (2) if despite such good faith efforts the City requires that Global remove such individual from the Facility, Global shall do so and assign replacement personnel to the Facility, subject to any approval rights of the City as set forth in Section 7.1(d); and (2) the costs of removing and replacing any such employee shall be an Operating Expense.

(f) The City acknowledges and agrees that Global may continue to provide and administer a short-term sales incentive plan for its sales employees, consistent with past practice, the cost of which shall be included in each Operating Budget. Any such short-term sales incentive plan shall be included in the Annual Management Plan and subject to the City's prior written approval, which approval the City may provide or withhold in the City's absolute discretion.

8. Indemnification and Insurance.

8.1 Indemnification.

(a) Global shall indemnify, hold harmless and defend the City, its officers, agents, servants, and employees, from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission or negligent act of Global, its

officers, agents, servants or employees, in the performance of services under this Agreement.

(b) In addition, Global shall indemnify, hold harmless and defend the City, its officers, agents, servants and employees, from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any misconduct of Global, its officers, agents, servants or employees, not included in subsection (a) above and for which the City, its officers, agents, servants or employees, are alleged to be liable.

(c) The indemnification provisions of this subsection 8.1 shall survive termination and/or expiration of this Agreement.

8.2 Liability Insurance.

(a) For each Facility covered under this Agreement, Global shall secure and deliver to the City Manager on or before the Commencement Date, and shall keep in force at all times during the Term of this Agreement, a commercial liability insurance policy, including public liability and property damage, covering the premises and the operations thereunder, in the amount of One Million Dollars (\$1,000,000.00) for bodily injury, and One Million Dollars (\$1,000,000.00) for property damage, including products and completed operations and independent contractors. Global shall also maintain Umbrella liability insurance with a limit of Five Million Dollars (\$5,000,000).

(b) Global shall also maintain comprehensive automotive bodily injury and property damage insurance for business use covering all vehicles operated by Global, and/or its officers, agents, and employees, in connection with the Facilities, whether owned by Global, the City, or otherwise, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence (including an extension of hired and non-owned coverage).

(c) On or before the Commencement Date, and continuing thereafter during the Term hereof, Global shall also maintain:

(i) professional liability insurance with coverage of at least One Million Dollars (\$1,000,000.00) for claims of negligent errors, acts or omissions by Global;

(ii) employment practices liability insurance with coverage of at least One Million Dollars (\$1,000,000.00) for claims relating to the employment practices of Global at the Facilities pertaining to its employees;

(iii) contingent liquor liability insurance, in the amount of One Million Dollars (\$1,000,000.00); and

(iv) cyber liability insurance, in the amount of Ten Million Dollars (\$10,000,000.00), with the City named as an additionally insured party; and

(v) personal advertising liability insurance, in the amount of One Million Dollars (\$1,000,000.00).

(d) Global shall be the named insured under all such insurance policies. The City of Miami Beach, Florida shall be an additional insured under the insurance policies described in Sections 8.2(a) and (b) hereof, as its interests may appear. All of the insurance policies described in this Section 8.2 shall contain a provision affirming Global's indemnification obligations under Section 8.1 hereof.

(e) Certificates evidencing the existence of the above insurance policies, all in such form as the City Manager may reasonably require, shall be delivered to the City Manager on or before the Commencement Date.

(f) Notwithstanding the provisions of this Section 8.2, the parties hereto acknowledge that the above insurance policies may contain exclusions from coverage which are reasonable and customary for policies of such type.

(g) Each such insurance policy or certificate shall contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the City Manager, 1700 Convention Center Drive, Miami Beach, FL 33139, sent by certified mail, return receipt requested."

(h) A renewal binder of coverage (or satisfactory evidence of such renewal) shall be delivered to the City Manager at least twenty (20) days after an insurance policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

(i) Except as provided in Sections 8.5(b) and 8.6 hereof, all insurance procured by Global in accordance with the requirements of this Agreement shall be primary over any insurance carried by the City and not require contribution by the City.

8.3 Workers Compensation Insurance.

Global shall at all times during the Term hereof maintain worker's compensation insurance (including occupational disease hazards) with an authorized insurance company, through the Florida State Compensation Insurance Fund, or through an authorized self-insurance plan approved by the State of Florida, insuring its employees at the Facilities in amounts equal to or greater than required under law.

8.4 Crime Insurance and Performance Guarantees.

(a) Crime Insurance. Global shall provide to the City, during the Term of this Agreement, crime insurance coverage covering all of Global's employees under this Agreement, in the amount of Five Hundred Thousand Dollars (\$500,000.00) for each loss, to reimburse the City for losses experienced due to the dishonest acts of Global's employees.

8.5 Property Insurance.

(a) The City shall, subject to Section 5.2 hereof, maintain its current property and hazard insurance covering the premises of each Facility and the City's personal property located thereon. In addition, the City shall, with respect to the losses covered by such property and hazard insurance, waive any subrogation rights that it may have against Global, and its officers, employees and agents, whether or not the City self-insures for the losses covered by such insurance. Nothing in this Agreement is intended to require Global to maintain property and hazard insurance covering the premises at the Facilities or the City's personal property thereon.

(b) The original or a certified copies of the policies referred to in Section 8.5(a) (with all required policy endorsements), plus certificates evidencing the existence thereof, shall be delivered to Global on or prior to the Commencement Date. Notwithstanding the provisions of Section 8.5(a), the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to "Global Spectrum, L.P., Risk Management Director, 150 Rouse Blvd., Philadelphia, PA 19112, sent by certified mail, return receipt requested."

(c) A renewal binder of coverage (or satisfactory evidence of such renewal) shall be delivered to Global at least twenty (20) days after a policy's expiration date, except for any policy expiring on the termination date of this Agreement or thereafter.

8.6 Certain Other Insurance.

If any of the City Agreements consist of agreements with independent contractors to provide services at a Facility (or at the Facilities), in renewing any such City Agreement, the City Manager shall use reasonable efforts to cause such contractors to name Global as an additional insured under any insurance maintained by such

contractors pursuant to the terms of such City Agreements and, in such event, to deliver to Global promptly after request therefore a certified copy of such policy and a certificate evidencing the existence thereof. In addition, if Global enters into any agreements during the Term of this Agreement with any independent contractors for the provision of services at a Facility (or at the Facilities), Global shall have the right to reasonably require such contractors to name Global (in addition to naming the City of Miami Beach, Florida) as an additional insured under any insurance required by Global thereunder and to deliver to Global, prior to the performance of such services, a certified copy of such policy, and a certificate evidencing the existence thereof.

9. Ownership of Assets.

9.1 Ownership.

The ownership of buildings and real estate, technical and office equipment and facilities, furniture, displays, fixtures, vehicles and similar tangible property located at each Facility shall remain with the City. Ownership of and title to all intellectual property rights of whatsoever value, held in the City's name, shall remain in the name of the City. The ownership of consumable assets (such as office supplies and cleaning materials) purchased with Gross Operating Revenues or City funds shall remain with the City, but such assets may be utilized and consumed by Global in its performance of services under this Agreement. The ownership of data processing programs and software owned by the City shall remain with the City, and the ownership of data processing programs and software owned by Global shall remain with Global. Global shall not take or use, for its own purposes, customer or exhibitor lists or similar materials developed by, or on behalf of, the City for the use of the Facilities, unless prior written consent is granted by the City Manager. Ownership of equipment, furnishings, materials, or fixtures not considered to be real property and other personal property purchased by Global with City funds for use at (and for) a Facility, shall vest in the City automatically and immediately upon purchase or acquisition. Any assets of the City including, without limitation, those described herein, shall not be pledged, lien, encumbered or otherwise alienated or assigned. Global will not claim any depreciation or amortization deduction, investment tax credit, or deduction for any payment as rent with respect to any portion of the Facilities.

9.2 City Obligations.

(a) Throughout the Term of this Agreement, the City will maintain full beneficial use and ownership of the Facilities and will pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any bonds, debentures or other security agreements or contracts, relating to a respective Facility, to which the City may be bound.

(b) The City shall provide Global with necessary office space at the Convention Center and such furniture, fixtures, and equipment as is available as of the Commencement Date in that Facility.

(c) The City shall provide Global with unrestricted egress and ingress to each Facility and shall make available to Global, at cost, parking spaces adjacent to the Convention Center, or located on City property in the immediate environs, as authorized by the City.

10. Assignment; Affiliates.

10.1 Assignment.

Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. For purposes of this subsection 10.1, the City's consent shall be defined as requiring the consent of the Mayor and City Commission.

10.2 Global Affiliates.

(a) Transactions with Affiliates, Subsidiaries, Parent Company, or Sister Companies. In connection with its management responsibilities hereunder relating to the purchase and/or procurement of equipment, materials, supplies, inventories, and/or services for a Facility, Global shall have the right, but not the obligation, to purchase and/or procure from an Affiliate, subsidiary, parent company, or sister company of Global. In the event Global purchases and/or procures from an Affiliate, subsidiary, parent company, or sister company of Global, the City Manager's prior written approval must be obtained. In determining whether to grant his or her consent or not, the City Manager shall, at a minimum, require that the prices charged for such goods and/or services be competitive with those obtainable from others providing comparable goods and/or rendering comparable services. To ensure compliance in this respect, the City Manager may require Global to obtain at least two (2) other competitive bids from persons (other than an Affiliate, subsidiaries, parent company, or sister companies of Global) whenever Global proposes to transact business with an Affiliate, subsidiary, parent company, or sister company for the provision of goods and/or services hereunder.

(b) Conflicts of Interest. The City acknowledges that Global manages other public assembly facilities which may, from time to time, be in competition with a Facility or the Facilities. The management of competing facilities will not, in and of itself, be deemed a conflict of interest or breach of Global's duties hereunder; provided, however, in all instances in which a Facility is in competition with other public assembly facilities managed by Global for the solicitation of certain events, Global shall not involve its

corporate or regional offices on behalf of any such other facility in an attempt to influence the decision-making process regarding the selection of a site by such events.

The primary purpose of this Agreement is for the management, operation, promotion and marketing of the Facilities. Global shall not use and/or otherwise exploit the logo, trademark, identity, and overall “brand” of the Facilities and/or of the City of Miami Beach, without the prior written consent of the City Manager. This shall include, without limitation, the use of the Convention Center and/or any City logo, trademark, identity, and/or “brand.”

11. Laws and Permits.

11.1 Permits, Licenses, Taxes and Liens.

Global shall be solely responsible for procuring any permits and licenses required for the business to be conducted by it hereunder. The City shall reasonably cooperate with Global in applying for such permits and licenses. Global shall deliver copies of all such permits and licenses to the City Manager. Global shall promptly pay, out of the accounts specified in Section 5.6 hereof, all taxes, excises, license fees and permit fees of whatever nature arising from its operation, management, maintenance, promotion, and marketing of the Facilities. Global shall not let any mechanic's or materialman's or any other lien become attached to any premises or improvements at a Facility, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman, so long as the work, labor or material was provided at Global's direction.

11.2 Governmental Compliance.

Global, shall comply with all federal, State, Miami-Dade County and City regulations, ordinances, statutes, rules, laws and constitutional provisions (collectively, Laws) applicable to Global's management of the Facilities hereunder, including, without limitation, Title III of the ADA and the provision of such auxiliary aids or alternate services as may be required by the ADA.

Nothing in this Section 11.2 or elsewhere in this Agreement shall, however, require Global to undertake any ADA compliance activity, nor shall Global have any liability under this Agreement therefor, if (a) such activity requires any Capital Improvements or Capital Equipment purchases, unless the City provides funds for same pursuant to Section 5.8 hereof, or (b) any City Agreement for use, occupancy, rental, and/or lease of a Facility fails to require lessee, tenant, promoter or user (collectively, a “user”) of the Facility to comply, and to be financially responsible for compliance, with Title

III of the ADA, in connection with any activities of user at that Facility. Furthermore, Global shall have the right to require any user of a Facility to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such user at that Facility.

11.3 No Discrimination in Employment.

In connection with the performance of work/services under this Agreement, Global shall not refuse to hire, discharge, refuse to promote, demote, or discriminate in matters of compensation against, any person otherwise qualified, solely because of race, color, religion, gender, age, national origin, military status, sexual orientation, marital status, weight, hair style, or physical or mental disability.

11.4 Living Wage.

This Agreement is subject to, and Global shall be required to comply throughout the Term hereof with, the provisions of the City's Living Wage requirements, as codified in Sections 2-407 through 2-410 of the City Code (as same may be amended from time to time).

11.5 Equal Benefits for Domestic Partners.

This Agreement is subject to, and Global shall be required to comply throughout the Term hereof with, the requirements of Section 2-373 of the City Code entitled, "Requirement for city contractors to provide equal benefits for domestic partners" (as same may be amended from time to time). The Agreement is deemed to be a "covered contract," as defined in Section 2-373(a)(6) of the City Code, and shall require Global to provide its employees working pursuant to this Agreement (whether working within the City of Miami Beach city limits, or within the United States, but outside the City limits, if such employees are directly performing work pursuant to this Agreement) "Equal Benefits" (as defined in Section 2-373(a)(8) of the City Code) to its employees with spouses and its employees with "domestic partners" (as defined in Section 2-373(a)(7) of the City Code). Failure by Global to comply with the requirements of Section 2-373 of the City Code (as same may be amended from time to time) shall be deemed to be a material breach of this Agreement which may result in termination of the Agreement, with all monies due or to become due under the Agreement to be returned by the City. The City may also pursue any and all remedies at law or in equity for such breach. Failure to comply with Section 2-373 may also subject Global to debarment, in accordance with the procedures provided in Sections 2-397 through 2-406 of the City Code.

12. Termination.

12.1 Termination Upon Default.

Either party may terminate this Agreement upon a default by the other party hereunder. A party shall be in default hereunder if (i) such party fails to pay any sum payable hereunder within thirty (30) days after same is due and payable, or (ii) such party fails in any material respect to perform or comply with any of the other terms, covenants, agreements or conditions hereof and such failure continues for more than sixty (60) days after written notice thereof from the other party. In the event that a default (other than a default in the payment of money) is not reasonably susceptible to being cured within the sixty (60) day period, the defaulting party shall not be considered in default if it shall, within such sixty (60) day period, have commenced with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence in the curing of such default; provided, however, that in no event shall a cure period pursuant to this Section 12.1 exceed a maximum total of 120 days after the initial notice of default therefore.

12.2 Termination Other than Upon Default.

(a) Global shall have the right to terminate this Agreement upon sixty (60) days written notice to the City (i) under the circumstances described in Sections 5.2, 5.3 or 5.5 hereof, or (ii) if the City fails to make Capital Improvements or Capital Equipment purchases at a Facility or to correct any condition at a Facility noted by Global pursuant to Section 2.3(s) hereof, to the extent that such condition materially impairs the ability of Global to manage that Facility.

(b) Either party shall have the right to terminate this Agreement under the circumstances specified in Section 13.5(c) hereof.

(c) Partial Termination for Convenience by the City. In addition to the rights and options to terminate pursuant to Sections 12.1 and 12.2 (a) and (b) hereof, or any other provision in this Agreement, the City reserves and retains the right, at its sole option and discretion, to terminate this Agreement, in part, without cause and without penalty, with regard to Global's rights and responsibilities with respect to any of Global's obligations under Section 13.16 related to Collins Canal Park, Collins Canal Mangroves, and Carl Fisher Clubhouse and Annex, said partial termination to become effective upon sixty (60) days prior written notice to Global. In the event of a partial termination pursuant to this subsection (d) of all of such areas, the Management Fee shall not be more than \$15,000 for the elimination of duties at Collins Canal Park and the Collins Canal Mangroves; nor more than \$20,000 for the elimination of duties at Carl Fisher Clubhouse and Annex per Fiscal Year (pro-rated for

any partial Fiscal Year) and adjusted by the lesser of CPI or three percent (3%), as in Section 4.1 (a).

12.3 Effect of Termination.

In the event this Agreement expires or is terminated: (i) all Operating Expenses incurred or committed for prior to the date of expiration or termination shall be paid using funds on deposit in the account(s) described in Sections 5.6 and 5.7 hereof and, to the extent such funds are not sufficient, the City shall pay all such Operating Expenses; and (ii) the City shall promptly pay Global all fees earned to the date of expiration or termination (the fees described in Section 4 hereof being subject to proration), provided that the City shall be entitled to offset against such unpaid fees any damages directly incurred by the City in remedying any default by Global hereunder which resulted in such termination (other than the fees or expenses of any replacement manager for the Facilities); and provided further that, in the event of termination or expiration of the Agreement prior to completion of the initial Term, and where such termination or expiration is not caused by a default of the City or a Force Majeure, the City shall also be entitled to offset against such unpaid fees any costs incurred by the City to relocate Global employees to the Facility to perform under this Agreement, subject to proration based on the number of days such employees worked at the Facility out of 1,095. Upon the expiration of this Agreement or a termination pursuant to Section 12.1 or 12.2 hereof, all further obligations of the parties hereunder shall terminate except for the obligations in this Section 12.3 and in Sections 8.1 and 12.4 hereof.

12.4 Surrender of Premises.

Upon termination of this Agreement (termination shall, for all purposes in this Agreement, include termination pursuant to the terms of this Section 12 and any expiration during the Term hereof), Global shall surrender and vacate the Facilities upon the effective date of such termination. The Facilities, and all furnishings, fixtures, and equipment thereon, shall be returned to the City in good repair, reasonable wear and tear excepted. All reports, records (including financial records), and any and all other documents maintained by Global relating to this Agreement, other than materials containing Global's proprietary information, shall be immediately surrendered to the City by Global upon termination.

13. Miscellaneous.

13.1 City Use of a Facility/Facilities.

(a) The City shall have the right to use each Facility, or any part thereof, upon reasonable advance notice and subject to availability, for such public uses including,

without limitation, meetings, seminars, training classes, or such other public uses, as may be determined by the City Manager, free of charge, except that direct out-of-pocket expenses incurred in connection with such use(s) shall be paid by the City.

(b) The City shall not schedule use of a Facility pursuant to subsection (a) above if such use will conflict with paying events booked by Global.

(c) Notwithstanding subsections (a) and (b) above, Global acknowledges that the Convention Center is a high visibility City-owned building. In the case of any type of emergency situation or natural disaster, including, without limitation, a hurricane or other extreme weather event, the City Manager may determine that the City's use of the Facility is necessary to protect the health, safety, and welfare of the residents and visitors of the City. Upon that determination (which determination shall be within the sole authority of the City Manager and shall be based upon the best information and knowledge regarding the particular emergency that the City Manager has available to him at the time of making such determination), and upon verbal or written notice to the general manager, Global shall promptly cede use of the Convention Center, or any portion thereof, for City use, free of charge (except that direct out-of-pocket expenses incurred in connection with such use shall be paid by the City), during the pendency of the emergency event and/or natural disaster (including, without limitation, the time period(s) immediately preceding and following the actual occurrence of such event).

13.2 Venue/Waiver of Jury Trial.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principals of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS AGREEMENT, CITY AND GLOBAL EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

13.3 Relationship of Parties.

Nothing herein contained is intended or shall be construed in any way as creating a partnership, joint venture, employee, or similar relationship between the City and Global. In operating the Facilities, entering into Facilities contracts, accepting reservations, and conducting financial transactions for the Facilities, Global acts solely as the independent, third-party contractor and exclusive manager for the Facilities (subject to the limitations on

Global's authority as set forth in this Agreement), in accordance with its obligations under the Agreement.

Global shall have exclusive control of and the exclusive right to manage and operate the Facility pursuant to this Agreement and shall be solely responsible for the acts and omissions of its officers, agents and employees. No person performing any of the work or services described hereunder shall be considered an officer, servant, or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

The provisions of this section shall survive expiration of the Term.

13.4 Written Amendments.

This Agreement shall not be altered, modified or amended in whole or in part, except in writing executed by each of the parties hereto.

13.5 Force Majeure.

(a) No party will be liable or responsible to the other party for any delay, damage, loss, failure, or inability to perform caused by "Force Majeure" if notice is provided to the other party within ten (10) days of the date on which such party gains actual knowledge of the event of "Force Majeure" that such party is unable to perform. The term "Force Majeure," as used in this Agreement, means the following: an act of God, strike, war, public rioting, lightning, fire, storm, flood, explosions, epidemics, pandemics, landslides, lightning storms, earthquakes, floods, storms, washouts, civil disturbances, explosions, and any other cause (whether of the kinds specifically enumerated above or otherwise) which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome (it being acknowledged that under no circumstances shall a failure to pay amounts due and payable hereunder be excusable due to a Force Majeure).

(b) Neither party hereto shall be under any obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the provision of any component necessary therefore shall be prohibited or rationed by any Law.

(c) In the event of damage to or destruction of a Facility or of the Facilities by reason of fire, storm or other casualty or occurrence of any nature or any regulatory action or requirements that, in either case, is expected to render the Facility or Facilities materially

untenantable, for a period of at least one hundred eighty (180) days from the happening of the fire, other casualty or any other such event, either party may terminate this Agreement upon written notice to the other; provided, however, if the damage or destruction does not render the Convention Center materially untenantable for such period of time, either party may terminate this Agreement solely with respect to the other Facility(ies) rendered untenantable, and this Agreement shall continue in effect with respect to the Convention Center and any other Facility not so affected, provided that the parties shall adjust the Management Fee to reflect such reduction in available Facility space.

(d) Global may suspend performance required under this Agreement, without any further liability, in the event of any act of God or other occurrence, which act or occurrence is of such effect and duration as to effectively curtail the use of a Facility or of the Facilities so as to effect a substantial reduction in the need for the services provided by Global for a period in excess of 180 days; provided, however, that for the purposes of this subsection, Global shall have the right to suspend performance retroactively effective as of the date of the use of a Facility or of the Facilities was effectively curtailed. "Substantial reduction in the need for these services provided by Global" shall mean such a reduction as shall make the provision of any services by Global economically impractical. No payment of the Management Fee otherwise due and payable to Global shall be made by the City during the period of suspension. In lieu thereof, the City and Global may agree to a reduced Management Fee payment for the period of reduction in services required.

13.6 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.

(a) This Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon, the parties hereto and each of their respective successors and permitted assigns.

(b) This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of the provisions herein contained, this Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns and for the benefit of no other person or entity.

13.7 Notices.

Any notice, consent or other communication given pursuant to this Agreement will be in writing and will be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by an

overnight courier service that is generally recognized as reliable, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefore as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the City:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139
Attn: City Manager

AND

City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139
Attn: City Attorney

AND

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: Economic Development Department Director

To Global:

Global Spectrum, L.P.
d/b/a OVG360
5050 S. Syracuse St., Suite 800
Denver, CO 80237
Attn: President

AND

Global Spectrum, L.P.
d/b/a OVG360
5050 S. Syracuse St., Suite 800
Denver, CO 80237
Attn: Legal Department

13.8 Section Headings and Defined Terms.

The section headings contained herein are for reference purposes only and shall not in any way affect the meaning and interpretation of this Agreement. The terms defined herein and in any agreement executed in connection herewith include the plural as well as the singular and the singular as well as the plural, and the use of masculine pronouns shall include the feminine and neuter. Except as otherwise indicated, all agreements defined herein refer to the same as from time to time amended or supplemented or the terms thereof waived or modified in accordance herewith and therewith. The parties to this Agreement have all participated fully in the negotiation and preparation hereof; and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

13.9 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute but one and the same agreement.

13.10 Severability.

The invalidity or unenforceability of any particular provision, or part of any provision, of this Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.

13.11 Non-Waiver.

A failure by either party to take any action with respect to any default or violation by the other of any of the terms, covenants, or conditions of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any rights of such party to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default.

13.12 Certain Representations, Warranties and Acknowledgements.

(a) The City represents, warrants, and covenants to Global the following: (i) all required approvals have been obtained, and the City has full legal right, power and authority to enter into and perform its obligations hereunder; and (ii) this Agreement has been duly executed and delivered by the City and constitutes a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

(b) Global represents and warrants to the City the following: (i) all required approvals have been obtained, and Global has full legal right, power and authority to enter into and perform its obligations hereunder, and (ii) this Agreement has been duly executed and delivered by Global and constitutes a valid and binding obligation of Global, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

(c) The parties acknowledge that neither Global nor any related party has a role or relationship with the City that would substantially limit the City's rights to take action under this Agreement, including the following: (i) no more than 20 percent of the voting power of the governing body of the City (in this case the City Commission) is vested in the directors, officers, shareholders, partners, members, and employees of Global (or any related party to Global), in the aggregate; (ii) the governing body of the City Commission does not include the chief executive officer of Global (or any related party to Global) or the chairperson (or equivalent executive) of Global's (or any related party to Global) governing body; and (iii) the chief executive officer of Global (or any related party to Global) is not the chief executive officer (or equivalent person) of the City or any of the City's related parties (as defined in U.S. Treasury Regulation §1.150-1(b)).

13.13 Approvals.

Whenever any matter set forth herein is made subject to the approval of the City or Global, the approval shall be expressed in writing and the City or Global (as applicable) shall not unreasonably withhold, delay or condition any such approval.

13.14 Global's Compliance with Florida Public Records Law

(A) Global shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.

(B) The term "public records" shall have the meaning set forth in Section

119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.

(C) Pursuant to Section 119.0701 of the Florida Statutes, if Global meets the definition of “Contractor” as defined in Section 119.0701(1)(a), Global shall:

- (1) Keep and maintain public records required by the City to perform the service;
- (2) Upon request from the City’s custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if Global does not transfer the records to the City;
- (4) Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of Global or keep and maintain public records required by the City to perform the service. If Global transfers all public records to the City upon completion of the Agreement, Global shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Global keeps and maintains public records upon completion of the Agreement, Global shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records, in a format that is compatible with the information technology systems of the City.

(D) REQUESTS FOR RECORDS; NONCOMPLIANCE

- (1) A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify

Global of the request, and Global must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

- (2) Global's failure to comply with the City's request for records shall constitute a breach of this Agreement. and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.
- (3) If Global fails to provide the public records to the City within a reasonable time may be subject to penalties under s. 119.10.

(E) CIVIL ACTION.

- (1) If a civil action is filed against a Global to compel production of public records relating to the City's contract for services, the court shall assess and award against Global the reasonable costs of enforcement. including reasonable attorneys' fees, if:
 - a. The court determines that Global unlawfully refused to comply with the public records request within a reasonable time; and
 - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that Global has not complied with the request, to the City and to Global.
- (2) A notice complies with subparagraph (1)(b) if it is sent to the City's custodian of public records and to Global at Global's address listed on its contract with the City or to Global's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- (3) If Global complies with a public records request within 8 business days after the notice is sent, Global shall not be liable for the reasonable costs of enforcement.

(F) IF GLOBAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GLOBAL'S DUTY TO PROVIDE

PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY OF MIAMI BEACH

ATTENTION: RAFAEL E. GRANADO, CITY CLERK

1700 CONVENTION CENTER DRIVE

MIAMI BEACH, FLORIDA 33139

E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV

PHONE: 305-673-7411

13.15 Prohibitions Regarding Sale Or Use Of Expanded Polystyrene Food Service Articles, Single Use Plastic Beverage Straws, And Single-Use Plastic Stirrers.

13.15.1 Global hereby agrees and acknowledges that, pursuant to Section 82-7 of the City Code, as may be amended from time to time, Global shall not sell, use, provide food in, or offer the use of expanded polystyrene food service articles (as defined in City Code Section 82-7) in City facilities or on City property, in connection with any services performed pursuant to this Agreement. A violation of this section shall be deemed a default under the terms of this Agreement. Notwithstanding the above, this section shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by Global.

13.15.2 Additionally, Global agrees and acknowledges that, pursuant to Section 82-8 of the City Code, as may be amended from time to time, Global shall not sell, use, provide food in, or offer the use of single-use plastic beverage straws or single-use plastic stirrers (as defined in City Code Section 82-8) in City facilities or on City property, in connection with any services performed pursuant to this Agreement. A violation of this section shall be deemed a default under the terms of this Agreement. Notwithstanding the above, the requirements of Section 82-8 shall not restrict Global from providing a beverage with, or offering the use of, a single-use plastic beverage straw or single-use plastic stirrer to an individual with a disability or medical condition that impairs the consumption of beverages without a single-use plastic beverage straw or single-use plastic stirrer.

13.15.3 As additional consideration for this Agreement and as an additional public benefit, regardless of the legal force and effect of the foregoing Sections 82-7, 82-8 and 46-92(c) of the City Code, as may be amended from time to time, Global agrees:

13.15.3.1 not sell, use, provide food in, or offer the use of expanded polystyrene food service articles in the Facility. A violation of this section shall be deemed a default under the terms of this Agreement. Notwithstanding the above, this section shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by Global; and

13.15.3.2 not sell, use, provide food in, or offer the use of single-use plastic beverage straws or single-use plastic stirrers in the Facility. A violation of this section shall be deemed a default under the terms of this Agreement. Notwithstanding the above, Global shall be permitted to providing a beverage with, or offering the use of, a single-use plastic beverage straw or single-use plastic stirrer to an individual with a disability or medical condition that impairs the consumption of beverages without a single-use plastic beverage straw or single-use plastic stirrer.

13.16 Collins Canal Park, Carl Fisher Clubhouse and Annex.

13.16.1 Collins Canal Park. The parties acknowledge that the City has developed Collins Canal Park, adjacent to the northern side of the Convention Center, renovated two (2) clubhouse buildings formerly known as the Carl Fisher Clubhouse and the Annex (also known as the “Little Stage Theater”) within Collins Canal Park, all of which assets are integral parts of the Convention Center campus. Global agrees to perform the functions and services described on Exhibit ____ (“Project Maintenance Responsibilities”) with respect to the maintenance, safety and security of Collins Canal Park. The Facilities include the green space, mangroves along the Collins Canal adjacent to Collins Canal Park, hardscape surfaces and seating areas as identified on Exhibit ____.

13.16.2 Carl Fisher Clubhouse and Annex. Global will manage, operate, and maintain the Carl Fisher Clubhouse and Annex, now referred to as the Rum Room and the Venu, as such property is identified on Exhibit ____ hereto (collectively, “CFCH”). The parties acknowledge that the City has engaged Sodexo Live! to provide food and beverage services at CFCH and thus Global’s duties shall not include the provision of food and beverage at CFCH but shall include oversight and management of Sodexo Live!’s services at the CFCH.

13.16.3 Management Services for Collins Canal Park and CFCH. As part of its management of Collins Canal Park and CFCH, Global shall also be responsible for marketing, sales (including but not limited to venue rentals and provision of ancillary revenue-generating services), booking, security, programming, activating and coordination with the City with respect to any City public programming of Collins Canal Park and CFCH, in the same manner as such services are generally provided for the Convention Center pursuant to this Agreement.

13.16.4 Operating Expenses to be Paid by City. All costs related to the operation, management and maintenance of Collins Canal Park and CFCH including without limitation staffing, insurance, supplies, landscaping, safety services, and fees paid

to third party contractors providing services on such properties, shall be Operating Expenses to be funded by the City in accordance with the terms of Section 5.1 of this Agreement. Global shall have no costs for its own account in connection with operating, managing and maintaining such sites. Global shall develop a budget for such costs prior to each Operating Year which budget shall be subject to the City's reasonable approval.

13.17 Acknowledgement of Scope of Other Landscaping and Maintenance Services Provided Under this Agreement. The City and Global hereby acknowledge that as part of Global's maintenance, operation and management of Collins Canal Park and CFCH under this Agreement, Global's scope of services includes maintenance and management of the landscaping and sidewalk areas along the entire frontage of the Convention Center, including (1) the entire frontage along Washington Avenue and Convention Center Drive; (2) the two (2) inner most travel lanes of Convention Center Drive, providing vehicular, pedestrian and curbside management; as well as the right of way areas to the north of the Convention Center (19th Street/Dade Blvd) and south of the Convention Center, where the south loading docks are located, with all such services paid to Global as part of its overall compensation for the operation and management of the Facilities under this Agreement, and all costs related to such services being Operating Expenses under this Agreement.

13.18 City and Global Coordination Regarding Parking Garage and Valet Services. City and Global acknowledge that the City, by and through its Parking Department, will be solely responsible for the management, operation, safety, security and maintenance of the parking garage structure located at the north side of the Convention Center ("City Parking Garage"), with the City Parking Garage maintained by the City as part of its Parking System, and further, that City is solely responsible for contracting with a valet services operator for the Convention Center and related areas. City agrees to coordinate closely with Global with respect to the efficient utilization of the City Parking Garage, including site logistics, facility maintenance and cleanliness, maintenance of traffic plans, coordination of valet services, and opportunities for efficiencies and collaboration with respect to value-added services that may be provided to event attendees at the Convention Center, such as the use of a reservations system for either valet services or the use of the City Parking Garage, for the benefit of event attendees. As Global is not the manager or operator of the City Parking Garage, nor providing maintenance or security services at the City Parking Garage, Global shall have no liability for claims arising out of the management, operational or maintenance of the City Parking Garage and shall be indemnified and held harmless by the City for any and all such claims, except to the limited extent any such claims are caused by any action or omission of Global and/or its employees/agents.

13.9 Entire Agreement.

This Agreement and the Exhibits attached hereto contain the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces any prior agreements, understandings and commitments of the parties hereto, except that any obligations accruing under the Original Agreement (such as indemnity and payment obligations) that are not satisfied as of the date hereof shall continue in effect and survive termination hereof. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF MIAMI BEACH, FLORIDA

By: _____

GLOBAL SPECTRUM, L.P.
d/b/a OVG360

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT “A”

CITY AGREEMENTS

EXHIBIT “B”

CONVENTION CENTER BOOKING POLICIES

EXHIBIT “C”

INTENTIONALLY OMITTED

EXHIBIT “D”

INTENTIONALLY OMITTED

EXHIBIT “E”

STANDARD CITY – FORM USE AGREEMENTS

EXHIBIT “F”

MINIMUM FACILITIES MAINTENANCE STANDARDS

EXHIBIT “G”

EVENT GUIDELINES

EXHIBIT “H”

INSURANCE REQUIREMENTS FOR USERS/LESSEES OF THE FACILITIES

EXHIBIT "I"
SERVICES TO BE PERFORMED BY GLOBAL AT COLLINS CANAL PARK

With respect to Collins Canal Park, Global shall:

(a) Global shall perform the following maintenance: (i) provide sufficient staff to clean and clear the Project Sites of any litter and other unsightly items, pick up trash, empty trash cans, replace trash bags and picking up litter as needed throughout the day; (ii) provide sufficient staff to pressure wash all hardscape surfaces, seating areas and graffiti every three (3) month or as needed or at the Direction of the City; (iii) maintenance of the landscaping contained within the Project Sites, including but not limited to the replacement of landscaping, as needed, in the City's reasonable discretion; (iv) provide regular roving safety and security patrols on a twenty-four (24) hour basis, including, but not limited to: reporting suspicious activities, monitoring and responding to alarms, writing and maintaining incident reports detailing safety and security issues, provide visual and physical examination of park facilities, equipment and/or amenities to ensure compliance with safety and proper operation; and (v) prepare and use commercially reasonable efforts to comply with City Cleanliness Index (Exhibit __), Public Area Cleanliness Index (Exhibit __), Grounds Maintenance Specifications and Appearance Index (Exhibit __). Without releasing or excusing Global's maintenance obligations under subsections (a)(i) and (ii) of this paragraph, the City, at its sole discretion, may undertake to maintain a portion or all of the landscaping at the Project Site, upon thirty days written notice to Global, thereafter releasing Global of any further obligation to maintain the landscaping responsibilities assumed by the City. In such case, there shall be no changes to the fees due to Global hereunder.

(b) The Director of the Economic Development Department of the City, or his or her designee, shall be designated as the "Contract Administrator" for matters concerning this Exhibit I. The City agrees that a single person shall serve as Contract Administrator under the Agreement and Exhibit I and the City shall notify Global of the person who shall serve as Contract Administrator and of any changes in who serves as Contract Administrator.

(c) Global will use commercially reasonable efforts to ensure that the Project Maintenance Responsibilities meet the "Extremely Clean" standard as set forth in the Cleanliness Index for Streets, Sidewalks, Right-of-Ways, Parks, Parking and Alleys established by the City of Miami Beach, which are set forth in the attached Exhibit __, with the exception that Global shall not be required to maintain the garbage cans located at the Project Sites.

(d) Global will be responsible for the maintenance program described herein, using commercially reasonable efforts to meet the City of Miami Beach GreenSpace Division Grounds Maintenance Service Technical Specifications for a Contractor, which are set forth in the attached Exhibit __.

EXHIBIT J
INCENTIVE FEE STRUCTURE

In addition to the Management Fee set forth in Section 4.1, the City shall pay to Global an annual Incentive Fee for each Fiscal Year, to the extent earned as described below. The maximum amount of the annual Incentive Fee for any Fiscal Year shall equal the amount of the Base Management Fee applicable to such Fiscal Year as such Base Management Fee may be increased or decreased in accordance with the terms of Section 4.1, above ("Eligible Incentive Fee") The Incentive Fee, to the extent earned, shall be payable by City to Global upon completion of the audit for the applicable Fiscal Year. For Year 1 of the Agreement, the parties shall mutually agree on the benchmarks by November 30, 2024.

Following the end of each Fiscal Year during the Term, the City Manager shall assess Global's performance during such Fiscal Year and provide Global with a written report of the annual Incentive Fee calculation based on Global's performance in the following seven (7) categories:

1. Financial and Productivity (up to 40% of the Eligible Incentive Fee)

Financial Incentive Fee. Each of the Gross Operating Revenue Target Benchmark, Net Operating Profit/Loss Benchmark and LPGR Benchmark shall be mutually agreed by the parties prior to each Fiscal Year and, unless otherwise mutually agreed, shall be the Gross Operating Revenue, Net Operating Profit/Loss and LPGR as reflected in the mutually agreed Operating Budget for the applicable Fiscal Year.

Global shall qualify to receive up to 40% of the Eligible Incentive Fee for any given Fiscal Year, as follows::

(i) Revenue Target Benchmark (15%): Global shall be paid 15% of the Eligible Incentive Fee if total Gross Operating Revenues at the Facility in a Fiscal Year are equal to or greater than the Gross Operating Revenue Target Benchmark for the applicable Fiscal Year.

(ii) Net Operating Loss/Profit Benchmark (15%): Global shall be paid 15% of the Eligible Incentive Fee if the Net Operating Loss in a Fiscal Year is equal to or less than the Net Operating Loss Benchmark (or, if applicable, the Net Operating Profit is equal to or greater than the Net Operating Profit Benchmark) for the applicable Fiscal Year. For the avoidance of doubt, for the purposes of defining a Net

Operating Loss that is less than the Net Operating Loss Benchmark, a Net Operating Loss of (\$5,000) is less than a Net Operating Loss Benchmark of (\$10,000).

(iii) Labor as a percentage of gross revenue (10%)

- (i) Labor as a percentage of gross revenue ("LPGR") shall be calculated by dividing all labor expenses for all personnel costs including salary, hourly, and temporary labor, and benefits costs over the Fiscal Year by the total Gross Operating Revenue over that same reporting period.
- (ii) Global shall be paid 10% of the Eligible Incentive Fee if LPGR is equal to or less than the LPGR Benchmark for the applicable Fiscal Year.

2. Customer Satisfaction (up to 15% of the Eligible Incentive Fee)

- i. Customer service is the direct interaction and assistance provided to guests, event planners, and attendees for all experiences and events held at the Facilities. This indicator measures the level of overall customer service satisfaction with services provided by Global for all experiences and events at the Facilities. Customer satisfaction surveys shall be collected pursuant to Section 6.6 of the Agreement.
- ii. Assessment
 - a. Global shall receive 15% of the Eligible Incentive Fee if the overall customer satisfaction score is at least 90% for the applicable Fiscal Year.
 - b. Global shall not receive any portion of the Customer Satisfaction portion of the Eligible Incentive Fee (i.e., this 15% component) if the overall customer satisfaction score is less than 90% for the applicable Fiscal Year.

3. Sustainability (up to 5% of the Eligible Incentive Fee).

- i. Sustainability is operating in a way that protects, preserves or restores the natural environment, promotes social equity, enhances the lives of people and communities and contributes to economic prosperity. In year 1 and on October 1 of each year of the Term thereafter, the parties shall mutually agree on a sustainability benchmark identifying the total water and total energy usage goals for the upcoming Fiscal Year (the "Sustainability Benchmark").
- ii. For each year of the term, Global shall receive 5% of the Eligible Incentive Fee for such year if, based on the sustainability data compiled each year, Global meets the Sustainability Benchmark.

4. Facility Conditions/Maintenance/Repair (up to 15% of the Eligible Incentive Fee)

- i. Global shall maintain the Facilities pursuant to a City approved preventive maintenance system, with Global submitting quarterly reports detailing the execution of the preventative maintenance schedule for the applicable quarter as well as providing a preview of the preventative maintenance schedule for the upcoming quarter. Quarterly preventative maintenance schedules shall be submitted to the City by Global no less than thirty (30) days prior to the end of the applicable quarter.
 - ii. Assessment: Global shall receive 15% of the Eligible Incentive Fee if Global has (1) timely completed all items identified in the quarterly preventative maintenance schedules for the applicable Fiscal Year and (2) received the City's written approval on all completed items for the applicable Fiscal Year.
5. Community Partnership (up to 5% of the Eligible Incentive Fee)
 - i. Global shall receive 5% of the Eligible Incentive Fee each Fiscal Year if Global meets or exceeds its obligations under the Agreement. Community Partnership shall be calculated by measuring new strategic alliances formed between various local organizations, businesses, or individuals to achieve positive measurable benefits the sales, revenue and reputation of the facilities, over the fiscal year. The Annual Management Plan will indicate each measure and how that measure will be calculated.
6. Sales (up to 15% of the Eligible Incentive Fee)
 - i. Priority 3 Bookings

Global shall receive up to 8% of the Eligible Incentive Fee if Global exceeds the number of quality Priority 3 events and social events, as mutually agreed and defined in the City's Convention Center Booking Policy Guidelines, attached as Exhibit " B " hereto at the Facility(ies) (the "Sales Benchmark"), each Fiscal Year that are a direct result of Global Sales Employees. Prior to each Fiscal Year, the parties shall mutually agree on the Sales Benchmark, which shall describe the minimum number and quality of events Global must book in the upcoming Fiscal Year for Priority 3 bookings.
 - ii. Hotel Partnerships

To receive 3% of the Eligible Incentive Fee, Global shall collaborate with Miami Beach hotel partners to increase the number of quality Hotel Partner group bookings using space within the facilities. The Hotel Partner Bookings Benchmark shall be mutually agreed and established as part of the annual sales and marketing plan and finalized before the applicable fiscal year, taking into consideration the minimum attendance and types of events booked in the current fiscal year.
 - iii. Great Miami Convention and Visitors Bureau

To receive 4% of the Eligible Incentive Fee, Global shall collaborate with the City's destination marketing organization, the Greater Miami Convention and Visitors Bureau ("GMCVB") to attract events and groups defined in the City's Convention Center Booking Policy Guidelines, attached as Exhibit "_____". The goals shall be established as part of the annual sales and marketing plan and finalized before the applicable fiscal year, taking into consideration the minimum attendance and types of events booked in the current fiscal year. The GMCVB Benchmark shall be mutually agreed and based on a target number of future hotel room nights for definite bookings at facilities verified in the current fiscal year.

7. Marketing & Communications (up to 5% of the Eligible Incentive Fee)
 - i. Global shall receive up to 5% of the Eligible Incentive Fee if Global has achieved 100% of goals in the mutually agreed annual marketing and communications plan that aligns with the GMCVB marketing and communications plan and shows relevant segmentation of marketing and communication initiatives that align with the City's goals for the Facilities.

The mutually agreed annual marketing and communications plan will indicate each measure and how that measure will be calculated.

EXHIBIT K
MAP OF FACILITY/FACILITIES

EXHIBIT O
CONVENTION CENTER CAMPUS
PROJECT MAINTENANCE RESPONSIBILITIES



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO INVITATION TO NEGOTIATE (ITN) NO. 2023-338-ND, THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND GLOBAL SPECTRUM L.P. D/B/A SPECTRA VENUE MANAGEMENT D/B/A OVG360 (A DIVISION OF OAK VIEW GROUP) FOR THE MANAGEMENT AND OPERATION OF THE MIAMI BEACH CONVENTION CENTER AND CAMPUS SUBSTANTIALLY IN THE FORM ATTACHED TO THIS RESOLUTION; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO FINALIZE AND EXECUTE THE MANAGEMENT AGREEMENT.

WHEREAS, Global Spectrum, L.P. was founded in 1994 as a management consulting firm; and

WHEREAS, the City and Global Spectrum L.P. ("Global") are parties to a Management Agreement, dated October 7, 2013, pursuant to which the City engaged Global to manage and operate the Miami Beach Convention Center (the Management Agreement, as so amended and modified, referred to herein as the "Agreement"); and

WHEREAS, the initial term of the Agreement was three (3) years, ending on September 30, 2016, subject to the City's right to extend the term for an additional two (2) years; and

WHEREAS, on October 21, 2015, via Resolution No. 2015-29191, the Mayor and City Commission approved Amendment No. 1 to the Agreement, extending the term thereof through September 30, 2020; and

WHEREAS, on September 23, 2016, the City terminated Global's responsibilities as manager and operator of the Colony Theater effective, September 30, 2016; and

WHEREAS, on September 12, 2018, via Resolution No. 2018-30508, the Mayor and City Commission approved Amendment No. 2 to the Agreement, extending the term thereof through September 30, 2022; and

WHEREAS, on September 11, 2019, in Resolution No. 2019-30986, the Mayor and City Commission approved Amendment No. 3 to the Agreement, approving an increase in Global's monthly imprest (fixed balance) amount and establishing a Global funded annual internship contribution; and

WHEREAS, on June 23, 2021, in Resolution No. 2021-31754, the Mayor and City Commission approved Amendment No. 4 to the Agreement providing for the management and maintenance, by Global, of Collins Canal Park, the two (2) clubhouse buildings formerly known as the Carl Fisher Clubhouse and Little Stage Theaters, and Pride Park, including the mangroves along Collins Canal within the footprint of the park; and provided for an additional annual management fee of seventy-five thousand dollars (\$75,000) in consideration of the additional scope, and extended the term of the Agreement to March 31, 2024; and

WHEREAS, extending the term of the agreement for 18 months resulted in the misalignment of the term of the Agreement with the City's fiscal year; and

WHEREAS, in June 2022, Global notified the City of a merger between Global and Oak View Group and its intent to operate and manage the Miami Beach Convention Center under the fictitious name "OVG360"; and

WHEREAS, on May 19, 2023, Invitation to Negotiate (ITN) No. 2023-338-ND was issued, as authorized by the City Commission, seeking proposals from convention facility management companies capable of providing a full range of comprehensive management, operations and maintenance services; and

WHEREAS, on September 13, 2023, the Mayor and City Commission awarded ITN No. 2023-338-ND, authorizing the Administration to enter into negotiations with Global as the sole proposer; and

WHEREAS, on February 21, 2024, in Resolution No. 2024-32912, the Mayor and City Commission approved Amendment No. 5 to the Agreement to extend the term of the Agreement by six (6) months and align it with the City's fiscal year and the related Sodexo Live! and GMCVB agreements; and

WHEREAS, on September 11, 2024, the Mayor and City Commission, through Resolution No. 2024-33232, approved Amendment No. 6 extending the Agreement on a month to month basis, not to exceed three (3) months, from October 1, 2024 through December 31, 2024 to allow the parties additional time to finalize the key terms of the new agreement; and

WHEREAS, on September 11, 2024, the City Commission also determined that Pride Park be managed and operated by the City's Parks and Recreation Department; and

WHEREAS, currently, Global is providing management services to the City, and the City is satisfied with its work over the term of the previous agreement; and

WHEREAS, as manager of the Miami Beach Convention Center, Global has hosted hundreds of events, including Art Basel Miami Beach, Super Bowl LIV Fan Experience, the Miami International Boat Show, and recently, the Adobe Max Creativity Conference; and

WHEREAS, Global has developed the Miami Beach Convention Center into a nationally recognized top tier convention center, earning numerous awards and recognitions from meeting publications around the country, including the Association, Convention & Facilities Magazine's 2023 Distinctive Achievement Award; and

WHEREAS, Global's effective management of the Miami Beach Convention Center Campus, and collaborations with the Miami Beach Botanical Garden have attracted new events and industries to the City, enhancing the ability to host dynamic events of all sizes; and

WHEREAS, with the Convention Center hotel development in progress, OVG360's collaboration promises a positive integration of this City asset to the operation of the campus; and

WHEREAS, specific key terms in the new agreement include a five-year agreement with two-year extension upon mutual agreement of the parties, General Management Services, a Management Fee, and a seven category Incentive Fee; and

WHEREAS, entering into a new agreement with Global, under the negotiated financial terms and performance metrics, will enhance the commercial management of the asset; heighten

engagement in the review and approval of personnel and induce Global to be more fiscally prudent, innovative, and competitive; and

WHEREAS, the new agreement will reward creative and pioneering collaborations, programming, and facility improvements as well as partnerships between the City, the Greater Miami Convention and Visitors Bureau ("GMCVB"), and Sodexo Live! that yield significant customer satisfaction resulting in increased sales, food and beverage concessions revenues, reputation, and more; and

WHEREAS, the implementation of more sustainability initiatives throughout the campus will ensure a reduction on environmental impact, enhance resource efficiency, and expand the MBCC responsible green reputation and metrics tracking; and

WHEREAS, the new agreement will ensure Global mitigate cybersecurity risks, data breaches, financial losses, and legal liabilities by including data protection requirements, breach notification protocols, liability and indemnity clauses, and compliance with laws.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, approve, pursuant to invitation to negotiate (ITN) No. 2023-338-nd, the management agreement between the City of Miami Beach and Global Spectrum L.P d/b/a Spectra Venue Management d/b/a OVG360 (a division of Oak View Group) for the management and operation of the Miami Beach Convention Center and Campus substantially in the form attached to this resolution; and further authorize the City Manager and City Clerk to finalize and execute the management agreement.

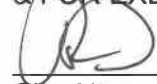
PASSED AND ADOPTED this _____ day of _____ 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

10/20/2024

Date