

SECOND AMENDMENT TO THE MANAGEMENT AGREEMENT

This Second Amendment to the Management Agreement (this "**Second Amendment**") is entered into effective as of July 1, 2023 (the "**Second Amendment Effective Date**") between Global Spectrum, L.P. d/b/a OVG360 (f/k/a Spectra Venue Management) ("**Manager**"), and the City of Grand Forks, North Dakota, a municipal corporation, d/b/a the Alerus Center ("**City**").

RECITALS

1. The City and Manager entered into that certain Management Agreement, effective as of July 1, 2017, (the "**Original Management Agreement**") whereby the City engaged the Manager to manage and operate the Alerus Center in the City (the "**Facility**").

2. The City and Manager entered into that certain Amendment to Management Agreement, effective as of May 21, 2019, to modify and amend certain terms of the Original Agreement (the "**First Amendment**").

3. For purposes of this Second Amendment, the Original Management Agreement, as amended and modified by the First Amendment, and the respective terms and conditions thereof, shall be collectively referred to as the "**Management Agreement**."

3. The City and Manager desire to amend the Management Agreement to extend the term and to modify the calculation and determination of the Incentive Fee, as described and pursuant to the terms hereof.

NOW THEREFORE, FOR A VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, IT IS AGREED AS FOLLOWS:

1. **Recitals.** The Recitals described above are true and accurate and by this reference incorporated into and an integral part of this Agreement.

2. **Definitions.** All of the defined terms and definitions set forth in the Management Agreement shall apply to and are incorporated into this Second Amendment, except that any modifications thereto and/or all other defined terms and definitions set forth in this Second Amendment shall apply.

3. **Modification of Section 4.1 of the Management Agreement.** The parties acknowledge that the City has determined to extend the Management Agreement as contemplated by Section 4.1 and accordingly, Section 4.1 of the Management Agreement shall be amended and modified to read as follows:

Section 4.1 **Term.** The term of this Agreement (the "Term") shall begin on the Effective Date and, unless sooner terminated pursuant to the provision of Section 4.2 below, shall expire on December 31, 2027.

4. **Modification of Section 3.2 of the Management Agreement.** The parties have

agreed to adjust the determination of net loss limitation on the payment of the Incentive Fee to address excessive snow removal expense and certain utility expenses that may occur during any single Operating Year. Accordingly, effective from and after the Second Amendment Effective Date, Section 3.2(e) of the Management Agreement is deleted in its entirety and replaced to read as follows:

- (e) Incentive Fee – Incentive Fee Cap Limitation/Incentive Fee Net Loss Limitation/Incentive Fee Utilities Expenses. The following shall apply in determining and calculating the total Incentive Fee (total Qualitative Fee plus Quantitative Fee) that may be payable to the Manager in any Operating Year:
- (1) Beginning with the 2023 Operating Year, the total Incentive Fee (total of the Qualitative Fee, if any, plus Quantitative Fee, if any) Manager may earn in any Operating Year shall not exceed the Incentive Fee Cap.
 - (2) The “Incentive Fee Cap” for the 2023 Operating Year shall be \$159,855.82. For years after the 2023 Operating Year, the Incentive Fee Cap shall be adjusted by the percentage increase in CPI.
 - (3) Beginning with the 2023 Operating Year, for each Operating Year for which the Incentive Fee is applicable, the total Incentive Fee (total of the Qualitative Fee, if any, plus Quantitative Fee, if any) Manager may earn and be paid shall not result in an “Incentive Fee Net Loss,” (as defined and determined under this Section 3.2(e)), for the Facility for the Operating Year. In the event payment of any Incentive Fees in any Operating Year results in the Facility experiencing an Incentive Fee Net Loss for such Operating Year, the earned and paid total (the total of the Qualitative Fee, if any, and Quantitative Fee, if any) shall be reduced on a dollar-for-dollar basis to the extent necessary to bring the Incentive Fee Net Loss to zero dollars (\$0.00). In no event, however, shall the Incentive Fee be reduced below zero dollars (\$0.00). By way of illustration and example only, if, for example, the total Incentive Fee (the total of the Qualitative Fee and Quantitative Fee) before the determination of the Incentive Fee Net Loss is \$125,000.00, and if, for example, the Incentive Fee Net Loss would be \$75,000.00, then the total Incentive Fee (the total of the Qualitative Fee and Quantitative Fee) earned and payable to the Manager, as result of the Incentive Fee Net Loss limitation, would be \$50,000.00, (being the amount that would cause the Incentive Fee Net Loss to become zero dollars (\$0.00)).

- (4) An Incentive Fee Net Loss shall occur when and in the event Operating Expenses plus the earned total Incentive Fee (the total of the Qualitative Fee, if any, and Quantitative Fee, if any) exceeds Revenues.
- (5) Solely for purposes of determining whether an Incentive Fee Net Loss for an Operating Year will occur, (and for no other purpose), the amount to be used, incorporated into and applied as part of the Operating Expenses for each "Incentive Fee Utility Expense" (as defined in Section 3.2(e)(6) below) shall be the lower of: (i) the actual expenditure paid for such Incentive Fee Utility Expense during the applicable Operating Year or (ii) the average expenditure paid for such Incentive Fee Utility Expense for the immediately preceding three (3) Operating Years (not including the Operating Year then-in effect).
- (6) The Incentive Fee Utility Expenses are as follows:
 - (i) Snow removal expense
 - (ii) Electricity expense
 - (iii) Public utility water expense (this excludes water purchased for concession re-sale)
 - (iv) Fuel oil expense
 - (v) Natural gas expense
- (7) By way of example and illustration only, the following is shown to demonstrate the application of Incentive Fee Utility Expense, as described in Sections 3.2(e)(5) and 3.2(e)(6), to determine whether an Incentive Fee Net Loss will occur:
 - (i) If, for example, actual expenditures paid during the 2024 Operating Year for each Incentive Fee Utility Expense were as follows:

Snow removal expense = \$250,000.00
Electricity expense = \$430,000.00
Public utility water expense = \$55,000.00
Fuel oil expense = \$65,000.00
Natural gas expense = \$130,000.00
 - (ii) And if, for example, the three year average (for the 2021, 2022 and 2023 Operating Years) expended for each Incentive Fee Utility Expense were as follows:

Snow removal expense = \$210,000.00

Electricity expense = \$400,000.00
Public utility water expense = \$40,000.00
Fuel oil expense = \$75,000.00
Natural gas expense = \$150,000.00

- (iii) Based on the foregoing example and illustrative amounts described in Section 3.2(e)(7)(i)-(ii), the following amounts would be used, incorporated into and applied as the applicable Operating Expenses for the 2024 Operating Year to calculate and determine whether an Incentive Fee Net Loss for such Operating Year will occur:

Snow removal expense = \$210,000.00
(3 year average was less than 2024 actual)

Electricity expense = \$400,000.00
(3 year average was less than 2024 actual)

Public utility water expense = \$40,000.00
(3 year average was less than 2024 actual)

Fuel oil expense = \$65,000.00
(2024 actual was less than 3 year average)

Natural gas expense = \$130,000.00
(2024 actual was less than 3 year average)

4. **Incorporation of Management Agreement.** The modifications, amendments and additions to the Management Agreement described herein, and the defined terms set forth in this Second Amendment, shall be incorporated into the Management Agreement as of the Second Amendment Effective Date.

5. **Continuation of Terms of Management Agreement.** This Second Amendment and the Management Agreement are to be read together and *in pari materia* but to the extent of any inconsistency between any term of this Second Amendment and any term of the Management Agreement, the terms of this Second Amendment shall control and prevail. Except as otherwise specifically modified and amended by this Second Amendment as of the Second Amendment Effective Date, all of the terms and conditions of the Management Agreement shall continue to be binding and effective.

6. **Counterparts.** This Second Amendment may be executed in two or more counterparts, each of which shall be considered an original.

7. **Entire Agreement.** This Second Amendment constitutes the entire understanding of the parties with respect to modifications and amendments described herein.

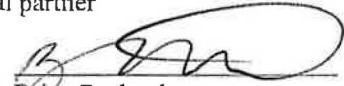
8. **Applicable Law.** This Second Amendment shall be construed and interpreted in accordance with the laws of the State of North Dakota and the Ordinances of the City of Grand Forks without regard to conflict of laws.

9. **Authority.** The parties acknowledge, warrant and represent that each has the full right, authority and power to enter into this Second Amendment. The parties further acknowledge, warrant and represent that the execution by the individuals noted below for such party, and the delivery and performance by the parties of this Second Amendment has been and/or shall be duly authorized by all necessary action of the parties and no other action on the part of the respective parties is required in connection therewith and that this Second Amendment and each agreement, document and instrument executed and delivered pursuant to this Second Amendment constitutes, or when executed and delivered will constitute, valid and binding obligations of the respective parties enforceable in accordance with their terms.

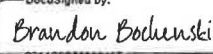
IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed and effective as of the Second Amendment Effective Date.

GLOBAL SPECTRUM, L.P.
d/b/a OVG360
f/k/a Spectra Venue Management

By: Global Spectrum, LLC, its
general partner

By: 
Name: Brian Rothenberg
Its: President
Dated: 10/17/23


**CITY OF GRAND FORKS, NORTH
DAKOTA,**

DocuSigned by:

By: Brandon Bochenski
Name: Brandon Bochenski
Its: Mayor
Dated: 10/2/2023

ATTEST:

DocuSigned by:

By: Maureen Storstad
Name: Maureen Storstad
Its: City Auditor
Dated: 10/2/2023

**GRAND FORKS EVENTS CENTER
COMMISSION**
By: 
Name: Jarrod Spoor
Its: Chairperson
Dated: 10/2/23