

**AMENDMENT NO. 3 TO THE MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH
AND
GLOBAL SPECTRUM L.P.
FOR THE MIAMI BEACH CONVENTION CENTER**

This Amendment No. 3 to the Management Agreement, dated October 7, 2013, by and between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation duly organized and existing under the laws of the State of Florida, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (“City”), and **GLOBAL SPECTRUM, L.P.**, a Delaware limited partnership, d/b/a Spectra Venue Management, whose current address is 150 Rouse Blvd., Philadelphia, PA 19112 (“Global”) is made and entered into this ____ day of _____, 2019.

RECITALS

WHEREAS, the City of Miami Beach and Global Spectrum, L.P., d/b/a Spectra Venue Management (“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 (“Convention Center”) and the Colony Theatre (collectively, the “Facilities”) (the Management Agreement, as amended, 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, the Mayor and City Commission adopted in Resolution No. 2015-29191, approving Amendment No. 1 to the Agreement, extending the term thereof through September 30, 2020; and

WHEREAS, pursuant to a letter dated September 23, 2016, the City and Global confirmed the City’s termination for convenience of Global’s responsibilities as manager and operator of the Colony Theatre, as permitted in subsection 12.2(c) of the Agreement; and

WHEREAS, on September 12, 2018, the Mayor and City Commission adopted in Resolution No. 2018-30508, approving Amendment No. 2 to the Agreement, which was entered into on October 15, 2018, extending the term thereof through September 30, 2022; and

WHEREAS, Global advised the Administration that it has incurred approximately two hundred thousand dollars (\$200,000) in expenses, during calendar year 2018, in employee severance costs, recruiting fees and interim General Manager support costs,

which expenses were not charged to the Convention Center Facility Operating Budget; and

WHEREAS, Global has proposed not charging these costs to the Facility Operating Budget, and treating these costs as a capital contribution, to be amortized on Global's books over the period from October 1, 2018 to September 30, 2022 (the "2018 Capital Contribution"); however, the City will not be obligated to reimburse Global for the 2018 Capital Contribution, even in the event of an early termination of the Agreement;

WHEREAS, pursuant to the Agreement, Global pays the City an annual contribution of \$15,000 ("Scholarship Contribution"), as defined in Section 5.10(c), for use in connection with a scholarship fund for in-need Miami Beach residents pursuing a career in facility management and/or the hospitality and tourism industry; and

WHEREAS, the Scholarship Contribution has been accumulating, from 2004 through 2018, and has a current balance of \$242,750; and

WHEREAS, Global and the Administration have agreed to repurpose of the Scholarship Contribution for use in connection with annual internships within the Miami Beach Convention Center, to be administered by the City, in collaboration with the Miami Beach Convention Center, until the balance is depleted; and

WHEREAS, the City and Global have agreed to increase the Global monthly impress amount for the operation of the Miami Beach Convention Center, as referenced in Section 5.1 of the Agreement ("Operating Funds"), from \$500,000 to an amount not to exceed \$1,000,000; and

WHEREAS, on September 11, 2019, the Mayor and City Commission adopted Resolution No. 2019-30986, approving, in substantial form, Amendment No. 3 to the Agreement, incorporating the terms and conditions contained herein; and

WHEREAS, capitalized terms used herein and not defined herein shall have the meaning given to such terms in the Agreement.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements herein contained, and other good and valuable consideration, in receipt and adequacy of which are hereby acknowledged and intending to be legally bound, the City and Global hereby amend the Agreement as follows:

1. The aforestated recitals are true and correct and incorporated by reference herein.
2. The City and Global hereby recognize the 2018 Capital Contribution as a capital contribution, which will be amortized on Global's books over the period from October 1, 2018 to September 30, 2022; however, in no event, including, without limitation, the early termination of the Agreement, will the City be responsible for reimbursing Global for any portion of the 2018 Capital Contribution.
3. Any provisions relating to the operation of the Colony Theatre under the

Agreement including, without limitation, Section 2.2(d), Exhibit "C", and Subsection Section 4.1(b)(ii) (Management Fee) are hereby deleted and of no further effect.

4. The definition of "Facility" and/or "Facilities" in Section 1 ("Definitions"); is hereby deleted in its entirety and replaced with the following:

"Facility" and/or "Facilities" – as to the Convention Center, having a physical address of 1901 Convention Center Drive, Miami Beach, Florida 33139 (as defined in the Recitals section of the 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. 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.

5. Section 5.1 is hereby amended as follows:

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 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 approval, a statement/invoice summarizing the deficit or surplus in a Facility account (described in Section 5.6 hereof) over the agreed upon impress combined Facility account balance for the Convention Center ~~and Colony~~. Such imprest amount ~~shall not exceed will be~~ ~~\$500,000~~ \$1,000,000 and will represent the combined balance of the Convention Center Facility account (Convention Center ~~and Colony~~) at the end of each month. If, at the end of such month, the combined operating balance is greater than ~~\$500,000~~ \$1,000,000, the surplus amount over ~~\$500,000~~ \$1,000,000 will be given back to the City in the form of a check, accompanied by a statement/invoice with appropriate bank reconciliations for the operating account as back up. If, at the end of such month the combined operating balance is less than ~~\$500,000~~ \$1,000,000, the deficit and the appropriate bank reconciliations documenting such deficit will be invoiced to the City for payment.

6. Section 5.10(c) is hereby deleted in its entirety and replaced with the following:

(c) Internships. Global shall contribute to the City Fifteen Thousand Dollars (\$15,000) 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 owned and administered by the City and applicants will be reviewed and recommended by Global and the City. Payment of the Internship Contribution shall be made within thirty (30) days of the commencement of each Contract Year during the Term hereof.

7. The sections, commencing after the first full paragraph of subsection 13.7 (Notices), containing the City addresses for notice purposes are hereby deleted and replaced with the following:

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, FL 33139
Attn: Tourism & Culture Director

To Global:

Global Spectrum, L.P.
d/b/a Spectra Venue Management
150 Rouse Blvd.
Philadelphia, PA 19112
Attn: President

AND

Global Spectrum, L.P.
d/b/a Spectra Venue Management
150 Rouse Blvd.
Philadelphia, PA 19112
Attn: General Counsel

8. Subsection 13.14 is hereby deleted in its entirety and replaced with the following:

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) REQUEST 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.

**(E) 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**

9. A new subsection 13.15 (Prohibitions Regarding Sale or Use of Expanded Polystyrene Food Service Articles, Single Use Plastic Beverage Straws, and Single- Use Plastic Stirrers) is added to the Agreement, as follows:

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, separate and apart from 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.

10. No Further Modifications. Except as provided in this Amendment, the Agreement remains unmodified and in full force and effect. All references to the Agreement in the Agreement or in any other document referencing the Agreement shall be deemed to refer to the Agreement as amended hereby.

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

ATTEST:

CITY OF MIAMI BEACH, FLORIDA



Rafael E. Granado, City Clerk

Dan Gelber, Mayor

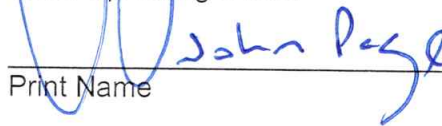
GLOBAL SPECTRUM, L.P. d/b/a
Spectra Venue Management

Chief Operating Officer

Print Name

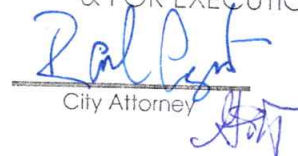
ATTEST:

Secretary



John Page

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

11/27/19

Date